



Case Summary
Dili District Court
May 2014

**Summary of the trial process at the Dili District Court
May 2014**

Introduction

In May 2014 JSMP continued its monitoring activities at the Dili District Court. JSMP monitored 16 criminal cases of the 97 cases that were before the court during this period. There were a total of 97 cases scheduled for trial, however several of the hearings were postponed, because the parties who had been summoned did not appear, or due to some other impediment. Due to limited resources, JSMP was only able to observe 16 of the 97 cases, which are described in detail below.

These cases involved a range of crimes, namely 7 cases regarding simple offences against physical integrity characterized as domestic violence, 3 cases of simple offences against physical integrity, 2 cases of aggravated theft, 1 case of property damage, 1 case of illegal import and export of goods or merchandise, 1 case of rape and 1 case of infanticide.

From these 16 cases, 9 have been decided by the court and the other 7 cases are still ongoing.

The following information summarises the trials of each of these cases:

1. Crime of simple offences against physical integrity - Case No. 58/2014/TDDIL

Composition of judges	: Single
Judge	: Antonio de Carmo
Public prosecutor	: Hipólito Santa
Public defender	: Rui Manuel Guterres
Conclusion	: Sentenced to 6 months in prison, suspended for 1 year.

On 14 May 2014 the Dili District Court conducted a hearing and proceeded to read out its decision against the defendant Jacob Caitano Ximenes, and sentenced him to 6 months in prison, suspended for 1 year. The court found the defendant guilty of committing the crime of simple offences against physical integrity against Jovelina Silva, on 30 April 2012, in Dom Aleixo-Comoro Sub-District, District Dili.

This decision was based on the testimony of the defendant that he did commit the crime against the victim as alleged in the indictment of the public prosecutor. These facts were corroborated by the victim.

The public prosecutor alleged that on 30 April 2012 the defendant choked the victim, kicked her once on her right thigh and once in the stomach, causing the victim to suffer pain to her neck, leg and stomach. This case occurred because the victim verbally insulted the wife of the defendant.

In relation to these acts, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During the trial the defendant admitted that he committed the crime against the victim. In addition, the victim corroborated the facts that the defendant had choked and kicked her.

In his final recommendations the public prosecutor maintained the charges and requested the court to hand down an appropriate penalty proportional to the actions of the defendant.

The public defender requested the court to hand down a suspended prison sentence against the defendant after considering the mitigating circumstances established during the trial, such as the fact that the defendant was a first time offender and expressed regret and promised not to reoffend in the future.

Based on these facts, the court decided the matter and handed down a sentence of 6 months imprisonment, suspended for 1 year.

2. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 105/2014/TDDIL

Composition of judges	: Single
Judge	: Ana Paula Fonseca
Public Prosecutor	: ReinatoBereNahak
Public Defender	: MarcalMasçarenhas
Conclusion	: Ongoing

On 14 May 2014 the Dili District Court conducted a hearing against three defendants (RFA, LA and MdCA) who were suspected of committing the crime of simple offences against physical integrity against TGP who was their brother-in-law, on 17 October 2012 in Matadoru, Dili District.

The public prosecutor alleged that on 17 October 2012 the victim returned home drunk and when he arrived home the defendants kicked him and punched him in the head, causing him to fall to the ground and the victim suffered heavy bleeding from his forehead. This case allegedly occurred because the victim was always going out and not taking responsibility for his family.

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

During the trial the defendants chose to remain silent. The witness RD testified that he did not see the incident, but he saw the victim bleeding from the forehead after the incident.

In his final recommendations the public prosecutor maintained the charges and requested the court to hand down a sentence designed to educate the community and deter the high number of cases involving domestic violence in Timor-Leste, especially at the Dili District Court.

On the other hand, the public defender requested the court to hand down a suitable penalty against the defendants because they were first time offenders.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 22 May 2014 at 11.30am.

3. Crime of simple offences against physical integrity - Case No. 523/2014/TDDIL

Composition of judges	: Single
Judge	: Antonino Gonçalves
Public Prosecutor	: Matias Soares
Public Defender	: Marçal Mascarenhas
Conclusion	: Settlement was validated

On 15 May 2014 the Dili District Court validated a settlement in a case of simple offences against physical integrity because the defendant and the victim have reconciled and the victim indicated a desire to withdraw the case. This case involved the defendant Juari Gomes and the victim Ricardinho Monte, and allegedly occurred on 10 January 2013, in Kristu Rei Sub-District, District Dili.

Pursuant to Article 262 of the Criminal Procedure Code, the court succeeded in its attempt to achieve conciliation between the two parties and instructed the defendant not to reoffend in the future against the victim or other person.

The court validated this process after considering the initiative and good intention of the victim to forgive the defendant because they have reconciled, and the victim only requested for the defendant not to repeat his actions in the future.

4. Crime of aggravated theft - Case No. 125/2013/TDDIL

Composition of judges	: Panel
Judges	: Jose M. de Araújo, Julio Gantes, Jumiati M. Freitas
Public Prosecutor	: José Luis Landim
Public Defenders	: Marcia Sarmiento, Cansio Xavier
Conclusion	: Ongoing

On 15 May 2014 the Dili District Court tried the defendants DM, JdS, and JdS who were allegedly involved in a case of aggravated theft committed against the State on 10 January 2012, at the MTCI Warehouse in Bebora, Dili.

The public prosecutor alleged that the defendants JodS and JdS were security guards from Guarda Mor who were providing security at the MCTI rice warehouse in Becora, and they

collaborated with the defendant DM (an outsider) to transport 122 sacks of rice from the warehouse.

In relation to these acts the public prosecutor charged the defendants for violating Article 252 of the Penal Code regarding the crime of aggravated theft.

During the trial the defendant DM testified that he was contacted by the defendant JodSto to transport the rice. Because he was employed as a driver and was trying to make money he was willing to transport the rice. At the Bebora Warehouse the defendant DM helped to load the rice into the vehicle but when he left the warehouse the police immediately arrested him.

The defendants JodS and JdS testified that on the day of the incident they were attacked by an unknown group of about 10 people, so they fled to their homes and only returned to the warehouse at 07.00 am to provide security. When they arrived at the warehouse their boss asked the two defendants what had happened in relation to the theft.

After hearing the testimony of the defendants, the court adjourned the trial to hear witness testimony on 29 May 2014, at 10.00 am.

5. Crime of simple offences against physical integrity, characterized as Domestic Violence - Case No. 558/2013/TDDIL

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public Prosecutor	: Lidia Soares
Public Defender	: José da Silva
Conclusion	: Ordered to pay a fine of US\$45

On 19 May 2014 the Dili District Court conducted a hearing and proceeded to read out its decision and ordered the defendant SdJ to pay a fine of US\$45, to be paid in daily instalments of US\$ 0.50 for 90 days. The court also issued an alternative punishment of 60 days imprisonment if the defendant fails to pay the fine.

This decision was based on the testimony of the defendant who stated that he did commit the crime against his wife, as stated in the indictment of the public prosecutor.

The public prosecutor alleged that on 9 September 2014, at approximately 5pm, the defendant verbally abused the victim, and struck the victim with a branch from a coffee tree on her arm and neck. This case occurred because the defendant followed the victim to the plantation and found that the victim had not been looking after their goats.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code in conjunction with Article 35 (a) of the Law Against Domestic Violence.

During the trial, the defendant admitted his actions and expressed remorse. In addition, the victim corroborated the facts listed in the charges of the public prosecutor.

In the final recommendations the public prosecutor requested the court to punish the defendant in accordance with Article 145 of the Penal Code. The public defender requested the court to issue an admonishment against the defendant in accordance with the mitigating circumstances such as the fact that the defendant had admitted his actions, was a first time offender, had expressed remorse and has 8 children.

After considering and evaluating the facts in this case, the court concluded the matter and ordered the defendant to pay a fine of US\$45, to be paid in daily instalments of US\$0.50. The court also issued an alternative punishment of 60 days imprisonment if the defendant fails to pay the fine.

6. Crime of rape – Case No. 117/2014/TDDIL

Composition of judges : Panel
Judges : Antonio do Carmo, Jumiati Freitas, Fransisca Cabral
Public Prosecutor : Vicente de Brito
Private Lawyer : José Pedro Camões
Conclusion : Ongoing

On 19 May 2014 the Dili District Court conducted a hearing against the defendant QSdC who allegedly committed the crime of rape against DS, on 15 September 2013, in Ermera District.

However, JSMP could not observe the hearing because it was closed to the public.

7. Crime of infanticide - Case No. 136/2013/TDDIL

Composition of judges : Panel
Judges : Ana Paula Fonseca, Julio Gantes, Hugo da Cruz Pui
Public Prosecutor : Jacinto Babo
Public Defender : Fernando Lopes de Carvalho
Conclusion : Adjourned

On 21 May 2014 the Dili District Court adjourned the trial of a case of infanticide because the presiding judge was ill.

Therefore, the court adjourned the trial until 29 May 2014, at 2pm.

8. Crime of Property Damage - Case No. 577/2013/TDDIL

Composition of judges : Single
Judge : Ana Paula Fonseca
Public Prosecutor : Reinato Bere Nahak
Public Defender : José da Silva
Conclusion : Ordered to pay a fine of US\$90

On 22 May 2014 the Dili District Court conducted a hearing and proceeded to announce its decision against the defendant EPM. The court ordered the defendant to pay a fine of US\$90

after he was found guilty of committing the crime of property damage against the victim LSdS on 20 August 2013 in Dili.

The public prosecutor alleged that on 20 August 2013, at approximately 2am, the defendant was heavily drunk and went into the victim's house and damaged 4 crates. Two of the four crates suffered serious damage and the other two suffered minor damage. In addition, the defendant also threatened to kill the victim if he came near him.

The public prosecutor charged the defendant for violating Article 258 of the Penal Code regarding property damage which carries a sentence of 3 years in prison or a fine.

During the trial, the defendant testified that he did commit this crime. Nevertheless, he tried to reconcile with the victim but the victim refused.

During the trial the defendant expressed remorse and promised not to reoffend in the future against the victim or any other person.

In his recommendations the public prosecutor requested the court to punish the defendant in accordance with the charges.

On the other hand, the public defender requested the court to acquit the defendant because based on existing photos the goods were not damaged.

After evaluating the facts, the court concluded this matter and ordered the defendant to pay a fine of US\$90 and court costs of US\$20.

9. Crime of simple offences against physical integrity - Case No. 26/2014/TDDIL

Composition of judges	: Single
Judge	: António do Carmo
Public Prosecutor	: Jaçinto Babo
Public Defender	: Fernando Lopes de Carvalho
Conclusion	: Sentenced to 3 months in prison, suspended for 1 year.

On 26 May 2014 the Dili District Court conducted a hearing and sentenced the defendant Alda Babo Bilou to three months jail, suspended for one year after he was found guilty of committing the crime of simple offences against physical integrity against Natalia dos Santos on 2 January 2014 in Bazartete Sub-District, Liquica District.

The public prosecutor alleged that on 2 January 2014 the defendant slapped the victim twice on the cheek, kicked her twice in the back and struck the victim in the head with a rock. These acts caused the victim to suffer heavy bleeding from her head, pain to her cheek and back. This case allegedly occurred because the victim demanded the defendant return her money that he had borrowed.

In relation to these acts, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During the trial the defendant denied some of the facts and said that he did not strike the victim as stated in the indictment. The defendant only admitted that he slapped the victim twice on the cheek and shook the victim twice. However, the victim testified that the defendant struck her as stated in the indictment of the public prosecutor.

In his final recommendations the public prosecutor maintained the charges and requested the court to hand down a penalty proportional to the criminal offence committed by the defendant.

In his final recommendations the public defender requested the court to issue an admonishment against the defendant because he was a first time offender and regretted his actions.

The court found the defendant guilty of committing the crime of simple offences against physical integrity against the victim, so the court concluded this matter and sentenced the defendant to 3 months in jail, suspended for 1 year.

10. Crime of simple offences against physical integrity characterized as domestic violence - Case No. 154/2014/TDDIL

Composition of judges	: Single
Judge	: Francisca Cabral
Public Prosecutor	: Gloria Alves
Public Defender	: Laura Lay
Conclusion	: Ongoing

On 27 May 2014 the Dili District Court tried a case of simple offences against physical integrity involving the defendant MMS who allegedly committed the offence against his wife on 18 January 2013 in Aimutin, District Dili.

The public prosecutor alleged that on 18 January 2013 the defendant struck the victim once in the eye and kicked her once in the back which caused the victim to suffer pain and swelling. This case allegedly occurred because the victim woke up late and did not prepare breakfast for the defendant.

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

During the trial the defendant admitted that he did hit the victim as alleged by the public prosecutor.

In his final recommendations the public prosecutor requested the court to sentence the defendant with an appropriate penalty proportional to his acts to educate the defendant not to reoffend in the future against the victim or any other person.

On the other hand, the public defender requested the court to apply a lenient sentence because the defendant was a first time offender, expressed regret and admitted his guilt.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 3 June 2014, at 3pm.

11. Crime of simple offences against physical integrity - Case No. 150/2014/TDDIL

Composition of judges : Single
Judge : Jumiati Maria Freitas
Public Prosecutor : Gloria Alves
Public Defender : Marcia Sarmento
Conclusion : Ongoing

On 27 May 2014 the Dili District Court tried a case involving simple offences against physical integrity involving the defendants CdA and LdC who allegedly committed the crime against JC and AC on 4 April 2012, in Bazartete Sub-District, Liquica District.

The public prosecutor alleged that on 4 April 2012 the defendant CdA punched JC three times in the face and twice on the shoulder. The defendant Ldc struck JC twice on the back. The actions of the two defendants caused the victims to suffer pain and swelling. This case allegedly occurred because JC verbally abused the defendant CdA.

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

In court the two defendants rejected all of the charges of the public prosecutor. However, the victim JC testified that the defendant LdC punched him twice and the defendant CdA punched him three times which caused the victim to suffer pain and swelling to his face and back. The victims also added that they were treated at the Liquiça hospital.

In addition, the victim AC also testified that the defendant CdA punched him twice in the back and three times in the face. This case allegedly occurred when the victims arrived home from school.

After hearing testimony from the defendants and victims, the court had doubts about the evidence presented during the trial so the court adjourned the trial until 11 June 2014, at 2pm for the cross-examination of the parties.

12. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 459/2013/TDDIL

Composition of judges : Panel
Judge : José Maria de Araujo
Public Prosecutor : IvoniaGuterres
Public Defender : Fernando Lopes de Carvalho
Conclusion : Ongoing

On 27 May 2014 the Dili District Court tried the defendant MF who allegedly committed the crime of simple offences against physical integrity against his wife (FdCA) on 13 April 2013 in Lahane, Dili District.

The public prosecutor alleged that on 13 April 2013, at approximately 9pm, the defendant twice slapped the victim on the cheek and punched the victim once on the back. This case allegedly occurred because it was late at night but the victim had not yet told the children to go to sleep.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts described in the indictment of the public prosecutor.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 6 months in prison, suspended for one year. The public defender agreed with the recommendation of the public prosecutor.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 11 June 2014, at 3pm.

13. Crime of illegal import and export of goods or merchandise - Case No. 114/2014/TDDIL

Composition of judges : Single
Judge : Julio Gantes
Public Prosecutor : Reinato Bere Nahak
Public Defender : Marcia Sarmento
Conclusion : Ordered to pay a fine of US\$ 180.

On 28 May 2014 the Dili District Court conducted a hearing to announce its decision in a case involving the crime of illegal import and export of goods or merchandise against two defendants. The defendant Manuel Gonçalves was ordered to pay a fine of US\$90, and the defendant Moises Morais was ordered to pay a fine of US\$90, therefore the combined total of the fines imposed was US\$180.

The court found that the defendants illegally imported 8 drums of fuel without paying tax. These 8 drums were included in a shipment of 21 drums supplied from Indonesia to Timor-Leste on 23 July 2013. This case was detected by the Maritime Police in Lecidere Dili, and the fuel was being transported on a small boat.

Previously, the public prosecutor charged the defendants with violating Article 315 for the crime of illegal import and export of goods or merchandise.

Based on the examination phase of the trial the court ordered the defendants to pay fines of US\$90 each, totaling US\$180, to be paid by the defendants in daily instalments of US\$1.00 for 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendants do not pay the fines.

14. Crime of aggravated theft - Case No. 634/2013/TDDIL

Composition of judges : Single
Judges : Julio Gantes, Fransisca Cabral, Jumiati Maria Freitas
Public Prosecutor : Hipólito Santa
Public Defender : Sergio Quintas
Conclusion : Sentenced to 2 years 6 months in prison, suspended for 3 years.

On 28 May 2014 the Dili District Court tried a case of aggravated theft and sentenced the defendants Faustina da Silva, FlavinaGonçalves and Paulo Pereira to two years six months in prison, suspended for three years. This case allegedly occurred on 12 January 2012 in Ermera District.

The public prosecutor alleged that the defendants stole 14 study desks, 32 chairs, 30 meters of electrical cable and 12 water pipes belonging to the Ermera State Primary School. These acts interrupted the teaching and learning activities of the school.

The public prosecutor charged the defendants for violating Article 252 of the Penal Code for aggravated theft.

During the trial the defendants admitted their actions. However, the defendants testified that all of the goods have been returned.

In his final recommendations, the public prosecutor requested the court to hand down a fair and appropriate penalty against the defendants to deter them from reoffending in the future.

In his final recommendation the public defender stated that the defendants committed the crime because they themselves admitted their actions during the trial, however the goods that they removed have been returned to the school and the defendants cooperated well with the court. Based on these mitigating circumstances he requested the court to apply a suspended sentence against the defendants.

After hearing the final recommendations of the parties, the court concluded this matter and sentenced the defendants to 2 years 6 months in prison, suspended for 3 years.

15. Crime of simple offences against physical integrity characterized as domestic violence - Case No. 126/2014/TDDIL

Composition of judges	: Single
Judge	: Ana Paula Fonseca
Public Prosecutor	: Jacinto Babo
Public Defender	: Manuel Exposto
Conclusion	: Court issued an admonishment

On 30 May 2014 the Dili District Court issued an admonishment against the defendant TdS after he was found guilty of committing simple offences against the physical integrity of his wife (IdR) on 23 June in Ermera District.

This decision was based on the testimony of the defendant, as the court found that he did commit the crime against the victim as alleged in the indictment of the public prosecutor.

The public prosecutor alleged that on 23 June 2013, at approximately 9pm, the defendant committed violence against the victim and punched her in the head causing the victim to suffer swelling and pain.

In relation to these acts, the public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity that carries a sentence of 3 years imprisonment or a fine, in conjunction with Article 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts described in the indictment of the public prosecutor.

Based on the evidence established during the trial, the public prosecutor requested the court to issue a fair penalty against the defendant.

On the other hand, the public defender requested the court to suspend the prison sentence because the defendant was a first time offender, admitted his actions, has reconciled with the victim and now they are living together as husband and wife.

After hearing the recommendations of the parties the court concluded the matter and issued an admonishment against the defendant.

16. Crime of simple offences against physical integrity, characterized as Domestic Violence - Case No. 573/2013/TDDIL

Composition of judges	: Single
Judge	: Ana Paula Fonseca
Public Prosecutor	: Jacinto Babo
Public Defender	: Olga Barreto
Conclusion	: Ordered to pay a fine of US\$ 67.50

On 30 May 2014 the Dili District Court conducted a hearing and ordered the defendant JT to pay a fine of US\$ 67.50 after he was found guilty of committing simple offences against physical integrity against his wife on 13 December 2012 in Dili District.

The public prosecutor alleged that on 13 December 2012, at approximately 5am, the defendant slapped the victim twice on the cheek causing her to suffer pain. The incident occurred because the victim did not prepare breakfast for the defendant.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts described in the indictment of the public prosecutor.

In his final recommendations the public prosecutor requested the court to issue an appropriate and fair fine against the defendant because he admitted his actions.

On the other hand, the public defender requested the court to hand down a lenient penalty because the defendant was a first time offender, admitted his actions and reconciled with the victim and they are now living together as husband and wife.

After hearing the final recommendations of the parties, the court found the defendant guilty of committing the crime against the victim and ordered the defendant to pay a fine of US\$ 67.50 to be paid in daily instalments of US\$ 0.75 for 90 days. In addition, the court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the fine.

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