



***Case Summary  
Baucau District Court  
September 2014***

**Summary of the trial process at the Baucau District Court  
Period- September 2014**

***Introduction***

In September 2014 JSMP continued to monitor trials at the Baucau District Court. During this period JSMP observed 31 of the 37 cases heard by this court.

These cases comprised 3 cases of crimes against flora and fauna, 1 case involving the mis use of authority, 2 cases of sexual coercion, 6 cases of simple offences against physical integrity characterized as domestic violence, 4 cases of simple offences against physical integrity, 1 case of sexual abuse against a person incapable of resistance, 1 case of mistreatment of a spouse, 1 case of aggravated property damage, 1 case of rape, 1 case of aggravated theft, 1 case of attempted murder, 1 case of mistreatment of a spouse and property damage, 1 case of manslaughter, 3 cases of property damage, 1 case of manslaughter and negligent offences against physical integrity, 1 case of obstructing a public authority, 1 case of making threats, and 1 case of property damage and making threats.

Of these 31 cases, 10 have been decided by the court and the other 21 cases are ongoing.

The following information provides a summary of the trial in each of these cases:

**1. Crime against flora and fauna - Case No.0001/14.PDBAU**

Composition of Judges : Single  
Judge : Antonio Fonseca  
Public prosecutor : Luis Hernani Rangel da Costa  
Public Defender : Juvinal Yanes  
Conclusion : Trial adjourned

On 3 September 2014 the Baucau District Court adjourned the trial of a case involving crimes against flora and fauna allegedly committed by the defendant HdCX against the Baucau District Ministry of Agriculture and Forestry on 19 June 2011 in Venilale Sub-District, Baucau District. The trial was adjourned because the judge handling this case was ill and the court did not set a date to continue the trial of this matter.

**2. Crime of misuse of authority -Case No.0002/12.PDBAU**

Composition of judges : Single

Judge : Antonio Fonseca  
Public Prosecutor : Luis Hernanio Rangel da Costa  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 3 September 2014 the Baucau District Court also adjourned the trial of a case of misuse of authority allegedly committed by the defendant AS against the State of Timor-Leste in Manatuto District.

The court adjourned the trial because the judge handling this case was ill. The court did not set a date to continue this trial.

### **3. Crime of sexual coercion - Case No. 0214/13.PDBAU**

Composition of judges : Panel  
Judge : Hugo da Cruz Pui  
Public Prosecutor : Alfonso Lopez  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 3 September 2014 the Baucau District Court also adjourned the trial of a case involving sexual coercion allegedly committed by the defendant JM against the victim CF on 7 May 2013 in Baucau District.

The trial was adjourned because the court was not able to establish a panel of judges because one of the judges was ill and another judge had returned to Portugal. The court did not set a date to continue the trial of this matter.

### **4. Crime of simple offences against physical integrity characterized as domestic violence - Case No.345/Crm.S/13.TDB**

Composition of judges : Single  
Judge : Jose Gonçalves  
Public Prosecutor : Alfonso Lopez  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 9 September 2014 the Baucau District Court also adjourned the trial of a case of simple assault involving the defendant JdCX who allegedly committed the offence against his wife (RGC) on 23 September 2013 in Baucau District.

The trial was adjourned because the judge handling this case had returned to Portugal. Like the previous case, the court did not set a date to continue the trial of this matter.

### **5. Crime of simple offences against physical integrity - Case No.0357/13.PDBAU**

Composition of judges : Single  
Judge : Jose Gonçalves  
Public Prosecutor : Alfonso Lopez  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 9 September 2014 the Baucau District Court also adjourned the trial of a case of simple assault involving the defendant AP who allegedly committed the offence against his wife (AF) on 20 October 2013 in Bahu Village, Baucau District.

The trial was adjourned because the judge handling this case had returned to Portugal and the court did not set a date to continue the trial of this matter.

**6. Crime of simple offences against physical integrity characterized as domestic violence -Case No.0194/13.PDBAU**

Composition of judges : Single  
Judge : Hugo da Cruz Pui  
Public Prosecutor : Alfonso Lopez  
Public Defender : Juvinal Yanes  
Conclusion : Trial adjourned

On 9 September 2014 the Baucau District Court also adjourned the trial of a case of simple assault involving the defendant MdS who allegedly committed the offence against his wife (MTF) on 19 April 2013 in Baucau District.

The trial was adjourned because the victim and the witness did not receive a summons from the court because they had moved to a new address. Therefore, the court adjourned the trial until 23 September 2014 at 2pm.

**7. Crime of simple offences against physical integrity – Case No.0492/13.PDBAU**

Composition of judges : Single  
Judge : Afonso Carmona  
Public Prosecutor : Domingos Barreto  
Public Defender : Americo Luis Freitas Belo  
Conclusion : Ordered to pay a fine of \$45

On 9 September 2014 the Baucau District Court conducted a hearing to announce its decision in a case of simple assault involving the defendant ES who committed the offence against AEH on 21 October 2013 in Buibau Village, Baucau Sub-District, Baucau District.

The public prosecutor alleged that on 21 October 2013 the defendant used a log to strike the victim on the head, once on the back, once on the calf and then bit the right arm of the victim because the victim had accused the defendant of taking her vegetables.

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

After examining all of the facts, the court found the defendant guilty of committing the crime as charged by the public prosecutor. As a trader, the defendant has an income of US\$45 a month.

Based on the facts produced during the trial, the court concluded this matter and sentenced the defendant to pay a fine of US\$45 in daily installments of 50 cents for

90 days. The court also ordered an alternative punishment of 60 days jail if the defendant did not pay this fine.

#### **8. Crime of sexual abuse of a person incapable of resistance- Case No.0503/13. PDBAU**

|                       |   |
|-----------------------|---|
| Composition of Judges | : Single  |
| Judges                | : Antonio Fonseca, Afonso Carmona, Hugo da Cruz Pui |
| Public prosecutor     | : Domingos Barreto                                  |
| Public Defender       | : Jonas Henrique da Costa                           |
| Conclusion            | : Ongoing   |

On 19 September 2014, the Baucau District Court tried a case involving the sexual abuse of a person incapable of resistance. This crime was allegedly committed by the defendant CMN against ENC (who suffers a disability to her right arm) in April 2012 in Buruma Village, Baucau District.

The public prosecutor alleged that at some time in April 2012, at 5pm after returning from voting in the Timor-Leste presidential elections, the defendant convinced the victim to go to the forest. When they got to the forest the defendant had sexual intercourse with the victim. Then, three days later at 7.00pm, the defendant again had sexual intercourse with the victim.

The public prosecutor charged the defendant with violating Article 179 of the Penal Code for the crime of sexual abuse against a person incapable of resistance.

During the trial the defendant admitted all of the facts alleged by the Public Prosecutor. The defendant confessed that they had sexual intercourse because they were boyfriend and girlfriend, or based on mutual consent. They had sexual intercourse four times. These actions resulted in the victim becoming pregnant and giving birth to a baby girl.

When the victim became pregnant, her family did not inform the defendant because he was working in Oe-Cusse. The defendant only found out when he received a summons from the public prosecutor in relation to this case.

During the trial, the defendant admitted that the child was his and stated that he regretted the actions he committed against the victim.

The victim testified that when she and the defendant were a couple and when they had sexual intercourse, it was with mutual consent. The victim added that their child had been baptized and had been given the family name of the defendant.

In his final recommendations the public prosecutor requested the court to convict the defendant pursuant to Article 179 of the Penal Code. The public defender requested the court to apply an appropriate penalty to the defendant because the sexual intercourse occurred with mutual consent and the defendant is responsible for his child. In addition, the victim also testified that they had sexual intercourse because they were a couple, they both consented and the defendant did not force her.

After hearing the final recommendations of the parties, the court adjourned the trial to

announce its decision on 7 October 2014 at 2pm.

#### **9. Crime of mistreatment of a spouse - Case No.155/Crm.C/13.TDB.**

Composition of judges : Panel  
Judge : Antonio Fonseca  
Public Prosecutor : DomingosBarreto  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 10 September 2014, the Baucau District Court adjourned the trial of a case of mistreatment of a spouse involving the defendant PdA who allegedly committed the offence against her husband on 26 February 2013 in Baucau District.

The trial was adjourned because the witness summoned by the court did not attend the hearing. Therefore, the court adjourned the trial until 18 February 2015, at 2pm.

#### **10. Crime of aggravated property damage - Case No.0493/11.PDBAU**

Composition of judges : Panel  
Judges : Antonio Fonseca, Afonso Carmona, Hugo da C. Pui  
Public Prosecutor : DomingosBarreto  
Public Defender :Grigóriode Lima  
Conclusion : Settlement was validated and defendants acquitted

On 10 September 2014 the Baucau District Court conducted a hearing in a case of aggravated property damage involving the defendants CdS and JBS who allegedly committed the offence against ABC on 10 October 2011 in Venilale Sub-District, Baucau District.

The public prosecutor alleged that on 10 October 2011, at 9am, the defendants used a piece of wood to destroy the victim's home. This occurred because the defendants claimed that the house was built on land that did not belong to the victim, but rather it belonged to the defendants. The actions of the defendants caused the victim to suffer a loss of approximately US\$1,400.

The public prosecutor charged the defendant with violating Article 259 of the Penal Code for aggravated property damage. which carries a sentence of 2-8 years in prison.

During the trial, the defendants CdS and JBS admitted all of the facts alleged by the public prosecutor. The defendants also testified that they had repaired the damage, returned goods to the victim and had reconciled with the victim.

The defendants CdS and JBS testified that they had returned the sound system that they damaged and 10 sacks of cement, 2 truckloads of sand, US\$100, 1 goat and 8 pieces of bamboo. In addition, the defendants used bricks to build a house and now the victim is living in that house.

The victim testified that on the morning of the incident, the defendants went to his house and destroyed 12 pillars. The pillars had been built with 10 sacks of

cement valued at US\$80, 2 truckloads of sand valued at US\$200, steel valued at US\$100, US\$200 for timber and a carpenter's labour valued at US\$400. The total amount spent by the victim to build the pillars was US\$980.

In his final recommendations the public prosecutor requested the court to amend Article 259 on aggravated property damage to Article 285 of the Penal Code on minor property damage because during the examination of evidence it was established that the cost of the goods was below US\$1000. Therefore, he requested the court to validate the settlement and acquit the defendants. In addition, the defendants and the victim had reconciled.

The public defender agreed with the recommendations of the public prosecutor and requested the court to validate the settlement and acquit the defendants because they had reconciled.

Based on the examination of evidence, the court amended the charge from aggravated property damage set out in Article 259 of the Penal Code to Article 285 of the Penal Code on minor property damage. After amending this article, the court validated the settlement and acquitted the defendants from all charges.

#### **11. Crime of simple offences against physical integrity characterized as domestic violence – Case No.0092/13.PDBAU**

|                       |  |
|-----------------------|--|
| Composition of judges | : Single   |
| Judge                 | : Antonio Fonseca  |
| Public Prosecutor     | : Luis Hernani Rangel da Cruz                                    |
| Public Defender       | : Grigório de Lima   |
| Conclusion            | : Sentenced to 6 months 15 days in prison, suspended for 1 year. |

On 10 September 2014, the Baucau District Court found that the defendant was found guilty of committing the crime of simple offences against the physical integrity of his wife (LS) on 7 January 2013 in Laklubar Sub-District, Manatuto District.

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

The court found the defendant guilty of punching the victim once in the eyebrow, once in the mouth, and once on the back. The defendant grabbed the victim and slapped her once on the cheek. Nevertheless, the court also considered that the defendant and the victim were living together like usual as husband and wife.

Based on this evidence, the court concluded the matter and sentenced the defendant to 6 months 15 days in prison, suspended for 1 year.

#### **12. Crime of rape-Case No.0136/13.PDBAU**

|                       |                   |
|-----------------------|-------------------|
| Composition of judges | : Panel           |
| Judge                 | : Antonio Fonseca |

Public Prosecutor : Luis Hernani Rangel da Cruz  
Public Defender : Grigório de Lima  
Conclusion : Trial adjourned

On 10 September 2014, the Baucau District Court adjourned the trial of a case involving rape that was allegedly committed by the defendant FdS against MXdS on 2 February 2011 in Lautem District.

The trial was adjourned because the defendant and witness were not present even though they had been summoned by the court. In addition, the court had not managed to summon the victim because he had moved to a new address.

Based on these reasons, the court adjourned the trial until 22 April 2015, at 10am. The court ordered a warrant of arrest to be issued against the defendant and witnesses.

### **13. Crime of aggravated theft - Case No.1430/10.PDBAU**

Composition of judges : Panel  
Judges : Antonio Fonseca, Afonso Carmona, Hugo da C. Pui  
Public Prosecutor : Pascasio de Rosa Alves  
Public Defenders : Mujariah Amaral, Alexandrina de Sousa and Casilda X. Sebastiana (private lawyer)  
Conclusion : Ongoing

On 10 September 2014, the Baucau District Court conducted a hearing in a case of aggravated theft allegedly committed by the defendants LF, CdS, AF, SdS and MS against ZSA, CL, FS and JS on 24 September 2002 in Uatulari Sub-District, Viqueque District.

The public prosecutor alleged that on 24 September 2002 at 8am, the defendants were carrying pieces of wood, machetes, spears, and homemade guns to Liasidi Sub-Village, Babulu Village. At that location the defendant threatened the victim by saying he would take 40 buffaloes to Iralere Sub-Village, Matahoi Village. It is estimated that in 2002 a buffalo was worth US\$100. These acts were led by the defendant LF.

The public prosecutor charged the defendant with violating Article 252 of the Penal Code for aggravated theft which carries a sentence of 2 - 8 years in prison.

During the hearing, the defendant CdS admitted to the court that all of the facts alleged by the public prosecutor were true. The defendants testified that they went to the home of the victim and took his buffaloes by force. However CdS added that, at that time, the defendant LF went to his house and asked him to go together with the defendant LF to get some buffaloes from the victim's place. The defendant LF threatened to kill CdS and his father if they did not meet his demand. At that time, the defendant CdS did go but his father stayed. The defendant CdS also testified that at that time he wasn't carrying any weapons.

The defendant LF admitted that he called upon the other four defendants to help him get buffaloes from the victim's place. However LF denied some of the facts linked to

the use of weapons. The defendant testified that at that time they were not carrying any weapons. When they arrived at the victim's buffalo enclosure, the defendant told the victim *"we have come to take back our buffaloes that you promised to return based on our earlier agreement."*

The defendant LF testified that in 1979 the victim and his younger siblings took 74 buffaloes belonging to the defendant LF. At that time, the victim and his younger brother told the defendant LF that *"now we are in charge, therefore we will take your buffaloes, and if Xanana is ever in charge then you will be able to take back your buffaloes"*.

Based on this promise, the defendant LF invited the other defendants to help him take back his buffaloes that had previously been taken by the victim and his younger sibling. The defendants took 42 buffaloes and 26 have been returned, while 16 have died because at that time the defendants were in temporary detention.

In addition, the defendant AF testified that at that time the defendant LF requested his assistance to take the buffaloes from the victim's place. The defendant AF added that he was not carrying any weapons. According to AF, when they arrived at the victim's buffalo enclosure, the defendant LF and the victim were arguing and in the end the victims said *"Okay, now is your time, take back your buffaloes, we will only stand by and watch"*.

Another two defendants SdC and MS testified that the defendant LF had called them to help him go and get the buffaloes from the victim's place.

The victim ZSA testified in court that at that time the defendants went there with machetes. The defendant LF yelled and forced the victim to hand over the buffaloes to them, otherwise the defendant would end the victim's life. At that time, via the local authorities, the victim handed over 12 of the 28 buffaloes which he had to the defendant.

The victim JS testified that the defendant LF yelled and threatened to kill them if they did not return the buffaloes to the defendant. Because the victims felt afraid they just allowed the defendants to take their buffaloes. At that time, the defendants managed to take 42 buffaloes. From these 42 buffaloes, 26 buffaloes belonged to the victim ZSA and 12 of these have been returned, the victim CL had 2 buffaloes and one of them has been returned, FS had 10 buffaloes and 9 have been returned and JS had 4 buffaloes and 3 of them have been returned.

The witness LdJ is the former Matahoi Village Chief, and ZdRS is the Iralere Sub-Village Chief. They testified that at the time the defendants took 42 buffaloes. However, 26 had already been returned and 16 had died.

In his final recommendations the public prosecutor requested the court to change Article 252 of the Penal Code on aggravated theft to Article 253 of the Penal Code on robbery because the public prosecutor believed that although the other three defendants also went to take the buffaloes, they were only intended for the defendant LF.



The lawyer for the defendant CdS asked the court to acquit the defendant from these charges because he only agreed to help the defendant LF because he was threatened by the defendant LF.

In relation to the defendants LF, AF, SdS and MS, the lawyer requested they be acquitted because the defendant LF went to take the buffaloes based on a promise or agreement that was made by the victim in 1979.

After hearing the testimony of the defendants, the victim and the witnesses, as well as the final recommendations, the court adjourned the trial until 24 September 2014 at 3.30pm to announce its decision.

#### **14. Crime of murder characterized as attempted murder - Case No.0010/14.VIQQS**

|                       |                          |
|-----------------------|--------------------------|
| Composition of judges | : Single                 |
| Judge                 | : Hugo da Cruz Pui       |
| Public Prosecutor     | : Pascasio de Rosa Alves |
| Public Defender       | : JuvinalYanes           |
| Conclusion            | : Ongoing                |

On 10 September 2014, the Baucau District Court conducted a preliminary hearing in a case of attempted murder involving the defendant PBdS who allegedly committed the offence against PPon 7 September 2012 in Ossu Sub-District, Viqueque District.

During this hearing, the public prosecutor presented the facts that on 7 September 2014, at approximately 10pm, in the Ossu market, the defendant stabbed the victim with a knife in the left armpit and pierced the victim's heart. These actions caused the victim to suffer heavy bleeding and he became unconscious. The victim was treated at the Guido Valadares National Hospital in Dili. After committing this crime, the defendant tried to escape, but the police managed to arrest him. This case allegedly occurred without a clear motive.

The public prosecutor charged the defendant with violating Article 138 of the Penal Code for murder.

During the trial the defendant testified that all of the facts alleged by the public prosecutor were true. The defendant testified that at that time he was drunk because he had been drinking palm wine and took a pill. The defendant testified that he had known about these pills since he was in primary school.

Based on the testimony of the defendant in relation to these facts, and also considering that the defendant did not want to cooperate and had tried to escape when the police went to the scene, the public prosecutor requested the court to place the defendant in preventative detention to expedite the investigative process.

The public defender requested the court to apply Proof of Identity and Residence measures requiring the defendant to periodically report to the authorities during the investigative process. The public defender asked for the application of Proof of Identity and Residence measures because at the time of the incident the defendant was

drunk.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 11 September 2014 at 9am.

**15. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0105/14.PDBAU**

Composition of judges : Single  
Judge : Hugo da Cruz Pui  
Public Prosecutor : Alfonso Lopez  
Public Defender : Jonas Henrique da Costa  
Conclusion : Ongoing

On 16 September 2014, the Baucau District Court conducted a hearing in a case of simple assault allegedly committed by the defendant JdS (a member of PNTL) against his wife (AldS) on 20 January 2014 in Baucau City, Baucau District.

The public prosecutor alleged that on 20 January 2014, at 8pm, the defendant punched the victim once in the eyebrow, once in the head, once in the mouth, once on the back, then choked the victim and threw her to the ground. This case allegedly occurred because the defendant asked about registering their electricity meter at the State Electricity Service (EDTL). At that time, the victim responded that she would register it the following day, so the defendant became angry and hit the victim.

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

During the trial the defendant admitted his actions. The defendant confessed that at that time he was drunk and after the incident the victim went immediately to Uma Paz (a safe house) where she stayed for three days. After three days the defendant, together with the police, collected the victim from Uma Paz. The defendant testified that he regretted his actions and there had been no further problems.

In his final recommendations the public prosecutor requested the court to order the defendant to pay a fine. The public defender stated that the defendant had admitted the charges, and at that time the defendant was drunk and not aware of his actions, this was the first time that he had hit the victim, he regretted his actions and since then they have been living together in peace, and he is a first time offender. Therefore he requested the court to issue a non-custodial penalty against the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its final decision on 25 September 2014 at 2pm.

**16. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 206/Crm.S/13.TDB**

Composition of judges : Single  
Judge : Jose Gonçalves

Public Prosecutor : Alfonso Lopez  
Public Defender : JuvinalYanes  
Conclusion : Trial adjourned

On 16 September 2014, the Baucau District Court adjourned the trial of a case involving simple assault allegedly committed by the defendant SdS against his wife (AG on 17 September 2012 in Laga, Baucau District.

The trial was delayed because the judge handling this case was attending training in Portugal. Therefore, the court didnot set a date to continue the trial.

**17. Crime of sexual coercion – Case No.301/Crm.C/13.TDB.**

Composition of judges : Panel  
Judges : Jose Goncalves, Antonio Fonseca and Hugo da C. Pui  
Public Prosecutor : Alfonso Lopez  
Public Defender : Lino Lopes  
Conclusion : Trial adjourned

On 16 September 2014, the Baucau District Court adjourned the trial of a case involving sexual coercion that was allegedly committed by the defendant OB against CdJ. This case allegedly occurred on 17 March 2013 in Baucau District.

The trial was adjourned because the victim did not appear in court.The court adjourned the trial until 7 October 2014 at 10am.

**18. Crime of mistreatment of a spouse and property damage - Case No.214/Crm.C/13.TDB.**

Composition of judges : Panel  
Judge : Antonio Fonseca, Afonso Carmona, Hugo da Cruz Pui  
Public Prosecutor : Luis Hernani Rangel da Cruz  
Public Defender : JuvinalYanes  
Conclusion : Ongoing

On 17 September 2014, the Baucau District Court conducted a hearing in a case involving the mistreatment of a spouse and property damage allegedly committed by the defendant JdS against his wife (AdS) and mother-in-law (MdS) on 29 January 2013 in Bagaia Sub-District, Baucau District.

Before conducting the hearing in the case involving the mistreatment of a spouse, the court attempted conciliation in the case involving property damage allegedly committed by defendant against his mother-in-law.

At that time, the defendant smashed the door to his mother-in-law’s house because he was angry athis brother-in-law who had damaged the wall of the defendant’s kiosk.

In court, MdS testified that she had forgiven the defendant and wanted to withdraw her complaint against him. The defendant also apologized and promised to repair the victim’s door that had been damaged to the value of US\$30.

Based on this agreement between the two parties, the court concluded the matter, validated the settlement and acquitted the defendant from the crime of property damage. After validating this agreement, the court proceeded to hear the case involving the crime of mistreatment of a spouse.

In this case, the public prosecutor alleged that on 28 October 2013, at midnight, the defendant kicked the victim once in the forehead, once in right cheek, choked her, and threw the victim's things out of the house. The defendant also evicted the victim from the house. These actions caused the victim to suffer swelling and bruising to her cheek and forehead. After the incident, the victim reported the matter at the Bagaia Police Station, did not return to her house, and went to live with her parents.

On 29 January 2013, at 5pm, the defendant came to the home of the victim's parents and chased the victim with a machete, however he did not manage to stab the victim. In 2012, the defendant tied the hands of the victim and kicked the victim on her side. This incident was also reported to the police.

This case allegedly occurred because the defendant's parents-in-law did not allow the defendant to build a house on their land. Therefore, the defendant became angry and often verbally abused and hit the victim.

In relation to these acts, the public prosecutor alleged that the defendant violated Article 154 of the Penal Code for mistreatment of a spouse in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant confirmed all of the facts set out in the public prosecutor's charges. In addition, the defendant also admitted the facts in relation to the crimes that were committed in 2012. The defendant testified that he tied the victim's hands, punched her twice in the leg, twice on the back, twice on her cheek and pushed the victim.

The defendant testified that he committed these acts because his parents in law banished the defendant and the victim, together with their 7 children, from the house. At that time, they went and lived in a house in a plantation.

The victim testified that the defendant always verbally abused her. The victim confirmed that the defendant committed the acts on 28 October 2013 at midnight when he tied her hands. In relation to the act that allegedly occurred on 29 January 2013 at 5pm, the victim testified that the defendant actually chased the victim's brother with a machete, not the victim, because at that time the victim was not there.

In his final recommendations the public prosecutor requested the court to hand down a prison sentence of 2 years, to be suspended for 3 years. On the other hand, the public defender requested the court to change Article 154 of the Penal Code to Article 145 of the Penal Code for simple offences against physical integrity.

The public defender argued that the defendant committed these crimes because the family of the victim tried to occupy the defendant's and victim's home, and that this situation led to the problems.

In addition, the public defender concluded that the defendant and victim had reconciled and that the defendant regretted his actions. Therefore, he requested the court to hand down a proportional penalty against the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial until 26 September 2014 at 9.30am in order to announce its decision.

#### **19. Crime of Manslaughter - Case No.0285/13.PDBAU**

|                       |                               |
|-----------------------|-------------------------------|
| Composition of judges | : Single                      |
| Judge                 | : Antonio Fonseca             |
| Public Prosecutor     | : Luis Hernani Rangel da Cruz |
| Public Defender       | : Juvinal Yanes               |
| Conclusion            | : Ongoing                     |

On 18 September 2014, the Baucau District Court conducted a hearing to hear the final recommendations against the defendant NMdJ who allegedly committed the crime of manslaughter against the deceased RdS on 13 July 2013, in Behali, Manatuto District.

In his final recommendations, the public prosecutor maintained the charges because the support that was provided by the defendant in the form of two buffaloes, two goats, coffee, sugar, rice and US\$4000 was not enough. This charge was based on the testimony of the defendant who admitted that he ran into the victim, as well as the testimony of the witnesses CMdS and ONP.

On the other hand, the public defender requested the court to acquit the defendant from the charges. The public defender referred to the testimony of the witness ONP who was driving the bus on which the victim had been travelling, namely that he stopped to pick up some wood, not to pick up a passenger.

After hearing the final recommendations of the parties, the court adjourned the trial 9 October 2014 at 3pm to announce its decision.

#### **20. Crime of property damage - Case No.3051/10.PDBAU**

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|-----------------------|---------------------------|
| Composition of judges | : Single                  |
| Judge                 | : Antonio Fonseca         |
| Public Prosecutor     | : Alfonso Lopez           |
| Public Defender       | : Jonas Henrique da Costa |
| Conclusion            | : Acquitted               |

On 18 September 2014, the Baucau District Court tried a case of property damage involving the defendant APF who committed the offence against JMB on 21 October 2010 in Buruma Village, Baucau District.

The public prosecutor alleged that on 21 October 2010, at 8am, the defendant went to the plantation of the victim carrying a machete and, without the knowledge of the victim who was the plantation owner, cut down the victim's trees. These actions caused the victim to suffer a loss of approximately US\$163.

In relation to these acts, the public prosecutor charged the defendant with violating Article 258 of the Penal Code for property damage.

During the trial, the defendant testified that the trees that he cut down were in his own plantation, and not in the plantation of the victim, and that he cut them down to build a fence around his plantation. The victim testified that he did not see the defendant cut down the trees, but that he had heard about it from others.

In his final recommendations, the public prosecutor requested the court to acquit the defendant from this case. The public defender agreed with the final recommendations of the public prosecutor to acquit the defendant because there was insufficient evidence to convict the defendant.

After hearing the final recommendations the court adjourned the trial for 15 minutes to prepare a decision. After that, the court recommenced the hearing and decided to acquit the defendant APF from the charges.

**21. Crime of manslaughter and negligent offences against physical integrity – Case No.0107/13.PDBAU**

|                       |                                    |
|-----------------------|------------------------------------|
| Composition of judges | : Single                           |
| Judge                 | : Antonio Fonseca                  |
| Public Prosecutor     | : Luis H.R. da Cruz                |
| Public Defender       | : Gregório de Lima                 |
| Conclusion            | : Ordered to pay a fine of US\$150 |

On 19 September 2014, the Baucau District Court ordered the defendant Tito dos Reis to pay a fine of US\$150 after finding him guilty of committing the crime of manslaughter against the deceased Francisco Baptista Carron and negligent offences against physical integrity of the victims Cristovão Soares, Abilio Oliveira and Nazario de Jesus on 20 January 2011, in Cribas Village, Manatuto District.

The public prosecutor charged the defendant with violating Article 140 of the Penal Code for manslaughter and Article 148 for negligent offences against physical integrity.

The court found that on 20 January 2011 at 9.45am, the defendant was driving a minibus bearing the number plate 3391 from Manatuto Village towards Kribas Village. When he arrived at Kribas Village, the defendant was unable to brake and slow down his vehicle, and he heard a sound under his vehicle. After hearing the noise, the passengers including the deceased Francisco Baptista Carron together with Cristovão Soares, Abilio Oliveira and Nazario de Jesus jumped out of the vehicle and as a consequence Francisco Baptista struck his head on the asphalt and died instantly. Meanwhile, Cristovão Soares and Abilio Oliveira suffered injuries to their heads and Nazario de Jesus suffered an injury to his foot.

Nevertheless, the court took into consideration the mitigating circumstances that the defendant regretted his actions, has three children and the defendant was a first time offender.

Based on these facts, the court concluded this matter and ordered the defendant to pay a fine of US\$150 in US\$1 installments for 150 days, including court costs of US\$20. The court also ordered an alternative penalty of 100 days in prison if the defendant did not pay this fine.

## **22. Crime of obstructing a public authority-0518/13.PDBAU**

Composition of judges : Single  
Judge : Antonio Fonseca  
Public Prosecutor : Pascasio de Rosa Alves  
Public Defender : Grigório de Lima  
Conclusion : Trial adjourned

On 19 September 2014, the Baucau District Court adjourned the trial of a case involving obstructing a public authority that was allegedly committed by the defendant AdS against the victim FMT on 12 December 2013 in Uaitame Village, Uatulari Sub-District, Viqueque District.

The defendant did not appear in court so the court adjourned the trial until 3 October 2014 at 09.30am.

## **23. Crime of making threats - Case No.0031/13.PDBAU**

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

On 22 September 2014, the Baucau District Court, through the mobile court at the Luro Sub-District Police Station in Lautem District, conducted a hearing in a case of making threats allegedly committed by the defendant TR against TD on 13 January 2010 in Luro, Lautem District.

The public prosecutor alleged that on 21 October 2013 at 10am, the defendant threatened to kill the victim because the victim asked the defendant to pay for the victim's corn that had been eaten by the defendant's horse in the victim's plantation. The defendant refused to pay and therefore they argued, then the defendant took out a sword and threatened to kill the victim.

In relation to this crime, the public prosecutor charged the defendant with violating Article 157 of the Penal Code for making threats.

During the trial, the defendant rejected all of the facts listed in the charges and testified that he did not threaten the victim and had not threatened the victim since that time. In relation to the compensation, the defendant testified that at that time he told the victim that he would pay.

The victim testified that he did not see the defendant's horse eating or damaging his

crops. She heard about it from her husband and went straight to the home of the defendant to tell him that his horse had eaten corn from her plantation, but when she arrived the defendant came down from his traditional house, verbally abused, chased and threatened the victim.

In his final recommendations, the public prosecutor argued that although the defendant denied the facts listed in the charges, the victim had maintained these facts. Therefore, he requested the court to impose a fine in accordance with the economic circumstances of the defendant.

The public defender requested the court to also consider that the victim has been free to move around without any threats from the defendant. Therefore he requested the court to acquit the defendant from the charges.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 2 October 2014 at 11 am.

#### **24. Crime against flora and fauna - Case No.0238/11.PDBAU**

|                       |                           |
|-----------------------|---------------------------|
| Composition of judges | : Single                  |
| Judge                 | : Afonso Carmona          |
| Public Prosecutor     | : Alfonso Lopez           |
| Public Defender       | : Jonas Henrique da Costa |
| Conclusion            | : Trial adjourned         |

On 22 September 2014, the Baucau District Court, through the mobile court at the Lautem District Police Office, adjourned the trial in a case involving crimes against flora and fauna allegedly committed by the defendants XSJFR, BdRX, FPLX and JDA against the State on 8 February 2011 in Pairara Village, Lautem Sub-District, Lautem District.

The trial was adjourned because the defendant FPLX and two witnesses were not present in court though they had been summoned. Therefore, the court adjourned the trial until 19 November 2014 at 10.30 am.

#### **25. Crime of simple offences against physical integrity – Case No.0301/13.PDBAU**

|                       |                                   |
|-----------------------|-----------------------------------|
| Composition of judges | : Single                          |
| Judge                 | : Afonso Carmona                  |
| Public Prosecutor     | : Alfonso Lopez                   |
| Public Defender       | : Jonas Henrique da Costa         |
| Conclusion            | : Ordered to pay a fine of US\$60 |

On 23 September 2014, the Baucau District Court, through the mobile court at the Tutuala Police Station, Lautem District, conducted a hearing in a case of simple assault involving the defendant RC (Cailoro Sub-Village Chief, Mehara Village) against a local resident FS on 1 July 2013 in Cailoro, Mehara Village, Lautem District.



The public prosecutor alleged that on 1 July 2013, at approximately 6.30pm, the defendant punched the back and forehead of the victim who fell to the ground. These actions caused the victim to suffer an injury to his forehead.

This allegedly occurred because the victim did not want to go to the defendant's house to settle a dispute about his buffalo that had entered into the plantation of another resident (RS) and damaged the crops. Because the victim did not want to settle the dispute, in his capacity of Sub-Village Chief, the defendant became angry and committed violence against the victim.

The public prosecutor charged the defendant with violating Article 145 of the Penal Code for simple assault.

In court the defendant admitted all of the facts described in the charges of the public prosecutor. However the defendant testified that in fact the victim had first kicked him in the stomach. As a result, the defendant felt pain and struck the victim in the forehead, knocking him to the ground.

The defendant added that after the incident, the victim stood up and tried to throw a stone at him, but it missed him. The victim chased the defendant and kicked him once on the left arm. In addition, the defendant also stated that when he told the victim to resolve the dispute the victim retorted that if he (the victim) did not go, what would happen?

The victim testified that, at that time, the defendant went to his house to obtain information to resolve the dispute about the victim's buffalo damaging the crops of RS, however the victim answered that he would provide information the next day. After hearing this, the defendant became angry and committed this crime against the victim.

The witness CM, the wife of the victim, testified that she did not see the incident because at that time, she was in the kitchen. After the incident, the witness CM saw that the victim had suffered an injury to his forehead.

In his final recommendations the public prosecutor requested the court to impose a fine against defendant because the defendant admitted that he committed this crime against the victim. The public defender requested the court to consider the defendant's testimony that he committed the crime against the victim in response to the victim's initial behavior.

After considering all of the facts produced during the trial, the court ordered the defendant to pay US\$60 in daily instalments of US\$0.50 for 120 days, and to pay court costs of US\$10. The court also stipulated an alternative punishment of 80 days in prison if the defendant did not pay the fine.

## **26. Crime of property damage and making threats - Case No.0301/12.PDBAU**

Composition of judges : Single  
Judge : Afonso Carmona

Public Prosecutor : Alfonso Lopez  
Public Defender : Jonas Henrique da Costa  
Conclusion : Trial adjourned

On 24 September 2014, the Baucau District Court adjourned the trial of a case involving property damage that was allegedly committed by the defendant JM against DP on 12 April 2012, in Iliomar I Village, Iliomar Sub-District, Lautem District.

The court adjourned the trial because the defendant was suffering from a mental illness. For this reason, the court adjourned the trial, but did not set a date to continue the trial.

**27. Crime of simple offences against physical integrity – Case No.0461/13.PDBAU**

Composition of judges : Single  
Judge : Afonso Carmona  
Public Prosecutor : Alfonso Lopez  
Public Defender : Jonas Henrique da Costa  
Conclusion : Agreement validated and defendant acquitted

On 25 September 2014, the Baucau District Court through the mobile court at the Lautem District Police Office, attempted conciliation in a case of simple assault committed by the defendant Constancio Cesar Napoleão against Lamberto Pereira on 26 September 2013 at Home Village, Lospalos Sub-District, Lautem District.

This occurred because the defendant and victim argued because their children had been throwing rocks at each other. During this incident the defendant's child was struck by a rock, and the defendant became angry and argued with the victim and in the end the defendant slapped the victim once on the cheek.

Previously, the defendant and the victim had reconciled and prepared an amicable agreement in writing. Based on this testimony, the victim decided to withdraw his complaint against the defendant.

In consideration of the amicable agreement between the parties, the court validated this process and acquitted the defendant.

**28. Crimes against flora and fauna - Case No.0224/13. PDBAU**

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

On 25 September 2014, the Baucau District Court, through the mobile court at the Lautem District Police Station, conducted a trial in a case involving crimes against flora and fauna committed by the defendants FPCX and AMNS against the State on 28 April 2011 in Lautem District.

The public prosecutor alleged that on 28 April 2011, at 9pm, the two defendants were travelling in a Mitsubishi car bearing the number plate 52.182 TLS transporting one square meter of wood of two meters length. At that time, the timber was confiscated by the PNTL who were conducting a patrol. The timber was valued at US\$220. The defendants were transporting the timber without written authorization from the forestry department.

In relation to these acts, the public prosecutor charged the defendants with violating Article 217 of the Penal Code for crimes against flora and fauna.

During the trial, the defendant FPCX testified that he had cut the timber and that he was the owner of the timber. As a result, he declared that the crime with which the public prosecutor had charged him was true.

The defendant AMNS testified that the defendant was a driver who was paid by the defendant FPCX to transport the timber and that he did not know if the person who cut the timber had authorization or not.

In his final recommendations, the public prosecutor requested the court to order the defendant to pay a fine in accordance with his economic circumstances. The public defender requested the court to consider that the defendants had no prior convictions and that they had expressed regret. On this basis, the public defender requested the court to hand down a fair punishment against the defendant FPCX and issue an admonishment against the defendant AMNS.

After evaluating the facts established during the trial, the court concluded this matter and ordered the defendant FPCX to pay a fine of US\$60 in daily instalments of US\$0.50 for 120 days and court costs of US\$20. The court also ordered an alternative punishment of 80 days in prison if the defendant did not pay this fine.

The court imposed a fine of US\$30 against the defendant AMNS, to be paid in daily instalments of US\$0.50 for 60 days. The court also ordered an alternative punishment of 40 days jail if the defendant did not pay this fine.

**29. Crime of simple offences against physical integrity characterized as domestic violence – Case No.0371/12. PDBAU**

|                       |                           |
|-----------------------|---------------------------|
| Composition of judges | : Single                  |
| Judge                 | : Afonso Carmona          |
| Public Prosecutor     | : Alfonso Lopez           |
| Public Defender       | : Jonas Henrique da Costa |
| Conclusion            | : Ongoing                 |

On 25 September 2014, the Baucau District Court, through the mobile court at the Lautem Police Office, conducted a hearing in a case allegedly involving simple assault by the defendant AdCB against his wife (EdC) and son (IdC) on 24 July 2014 in Lautem District.

The public prosecutor alleged that on 24 July 2014, at midday, the defendant struck the victim EdC numerous times in the head and back. In addition, the defendant took a

machete and slashed the right hand of the victim EdC. These actions caused the victim to suffer a minor injury to her hand. The defendant also slashed the head of the victim IdC. The public prosecutor alleged that the defendant committed these crimes without a clear motive because the defendant was suffering from a mental illness.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code for simple assault in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial, the defendant confessed and testified that at that time he had been suffering from a mental illness for one year. The defendant also testified that he had a doctor's certificate regarding his mental illness which was tendered in the hearing.

The victim corroborated the facts listed in the charges and testified that she was living separately from the defendant, and their seven children were living with the defendant.

In his final recommendations, the public prosecutor argued that the defendant committed the crime because of a mental illness. This was based on the medical report and was confirmed by the victim. Therefore, he requested for the court to apply a penalty against the defendant in accordance with the articles listed in the charges.

The public defender requested the court to acquit the defendant from the charges. The public defender stated that the mitigating circumstances produced during the trial demonstrated that the defendant had committed the crime because he was suffering from a mental illness.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 2 October 2014 at 10am.

### **30. Crime of property damage -Case No.0319/13. PDBAU**

|                       |   |
|-----------------------|---|
| Composition of judges | : Single                                      |
| Judge                 | : Afonso Carmona                              |
| Public Prosecutor     | : Alfonso Lopez                               |
| Public Defender       | : Jonas Henrique da Costa                     |
| Conclusion            | : Agreement validated and defendant acquitted |

On 25 September 2014, the Baucau District Court, through the mobile court at the Lautem Police Station, attempted conciliation in a case involving the crime of property damage involving the defendant Jose Valente who committed the offence against the victim Oracio da Conceição Savio. This case allegedly occurred in May 2013 in Fuiloro Village, Lospalos Sub-District, Lautem District.

This incident allegedly occurred because the defendant pulled out four trees belonging to the victim that were planted by the victim on land that was disputed by the two of them.

In this case, the public prosecutor charged the defendant with violating Article 258 of the Penal Code for property damage.

Before they appeared in court, the defendant and the victim reconciled and prepared an amicable agreement in writing. Based on this agreement, the victim decided to withdraw his complaint against the defendant.

Based on this process and the agreement made by the parties, the court validated the agreement and acquitted the defendant.

### **31. Crime of property damage -Case No.0372/13. PDBAU**

|                       |   |
|-----------------------|---|
| Composition of judges | : Single                                      |
| Judge                 | : Afonso Carmona                              |
| Public Prosecutor     | : Alfonso Lopez                               |
| Public Defender       | : Jonas Henrique da Costa                     |
| Conclusion            | : Agreement validated and defendant acquitted |

On 25 September 2014, the Baucau District Court, through the mobile court at the Lautem Police Station, attempted conciliation in a case involving the crime of property damage involving the defendant Acacio Viana against the victim Cristiano Rodrigues on 3 August in Lautem District.

This case resulted from a number of buffaloes belonging to the defendant eating five coconut trees. Therefore, the victim became angry and reported the matter to the police.

The public prosecutor charged the defendant with violating Article 258 of the Penal Code for property damage.

Before the court summoned the defendant and the victim to court, the defendant and the victim resolved their dispute and prepared an amicable agreement in writing. Based on this agreement, the victim decided to withdraw his complaint against the defendant.

In consideration of the amicable agreement entered into by the parties, the court validated this process and acquitted the defendant.

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