



Press Release
Dili District Court
31 March 2015

Court imposes an effective sentence of 1 year in prison for crime of domestic violence

On 27 March 2015 the Dili District Court conducted a hearing to announce its decision and sentenced the defendant MdJ to an effective term of 1 year in prison for committing the crime of domestic violence against his wife in Aileu District.

Previously, the Public Prosecutor alleged that on 30 December 2012 the defendant struck the victim four times on the head, struck her four times on the back, kicked her twice on her side and caused the victim to fall to the ground. After the victim fell to the ground, the defendant then twice stomped on her hip. These actions caused the victim to suffer pain and swelling to her head, hip and back and also breathing irregularities. The incident occurred because the defendant ordered the victim to go and pound some corn but the victim refused, because she was going to pray.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse together with Article 35 of the Law Against Domestic Violence.

“JSMP appreciates the decision of the court because this decision provides a lesson for all people to avoid domestic violence and to prevent such crimes from being committed against family members in the future,” said the Executive Director of JSMP, Luis de Oliveira Sampaio.

This penalty follows advocacy carried out by JSMP over many years about crimes of domestic violence that are charged under Articles 145 or 154 of the Penal Code, the majority of which end up with suspended sentences. JSMP hopes that this decision will be a reference point for any future crimes of domestic violence of a similar nature.

During the trial, the defendant testified that he did not punch the victim, but only slapped her four times on the mouth and kicked her once on the back. The defendant also testified that he punched the victim because the victim said “*no one tells me what to do*”.

In her testimony the victim confirmed the facts in the indictment and also told the court that on another occasion on a date which she could not recall the victim was in the plantation and the defendant tried to stab her with a crowbar but was blocked by a female relative of the victim, so the defendant was unable to stab the victim.

Since that incident the victim decided to separate from the defendant and has been living with her parents until now. The victim also testified that the defendant struck her on 16 November 2012 and this matter was resolved by the Xefe de Suco, and in the end the defendant continued to commit the acts. The victim also testified during the trial that she decided not to return to live with the defendant because while they were living together the defendant paid more attention to his parents and always hit her.

Based on the facts demonstrated on 18 March 2015, the court amended the charge from Article 154 of the Penal Code on the mistreatment of a spouse to Article 145 of the Penal Code on simple offences against physical integrity together with the Law Against Domestic Violence.

The public prosecutor maintained the original charges because the violence impacted on the victim, therefore the victim herself decided to separate from the defendant. The court decided to proceed with the amendment because even though the defendant committed other acts, the victim did not lodge a complaint about them.

JSMP believes that in this case the public prosecutor has used the correct article in the charges, because JSMP believes that the crime of mistreatment of a spouse which is provided for in Article 154 of the Penal Code does not require evidence that the crime has been committed on multiple occasions. JSMP believes that mistreatment is an act that gives rise to physical and psychological consequences for a victim who is living together with the defendant as his wife. JSMP hopes that in the future the court can reconsider the crime of mistreatment of a spouse in similar cases.

In her final recommendations the public prosecutor requested the court hand down a prison sentence of 1 year, to be suspended for 2 years, because the defendant was guilty of committing violence against the victim. The public defenders in their final recommendations requested the court impose a lenient suspended sentence because the defendant cooperated with the court.

The court found that on 30 December 2012 the defendant punched the victim four times in the head, and kicked the victim twice on her hip which caused the victim to fall to the ground. The court did not find proof of the accusation that the defendant always hit the victim and tried to stab the victim with a crowbar.

After hearing the final recommendations of the parties, the court concluded this matter and sentenced the defendant to an effective prison term of 1 year. The judge explained the reasons for the effective prison sentence were because the defendant denied the facts listed in the indictment, and the victim separated from the defendant because during their life together the defendant always committed violence against the victim, so it was necessary to apply an effective prison term to ensure that the defendant does not commit similar crimes in the future.

This matter was registered with the court as Case No. 1065/14.TDDIL and Case No. 0247/13.PDDIL. The hearing was presided over by judge Francisca Cabral, the Public Prosecution Service was represented by Ivonia Maria Guterres and the defendant was represented by Public Defenders Umberto Alves and Francisco Caitano Martins (trainee).

For more information, please contact:

Luis de Oliveira Sampaio
Exekutive Director JSMP
Diresaun e-mail: luis@jsmp.minihub.org