



JUDICIAL SYSTEM MONITORING PROGRAMME
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Case Summary

Oe-Cusse District Court

March 2015

Summary of the trial process at the Oe-Cusse District Court
March 2015

Introduction

In March 2015 JSMP continued to observe trials conducted by the Oe-Cusse District Court. During this period JSMP observed 13 cases from a total of 23 cases that were tried by the Oe-Cusse District Court. JSMP was unable to monitor the other 10 cases because they were tried when JSMP staff assigned to the Oe-Cusse District Court had to return to Dili because of other institutional commitments.

These 13 cases comprised 6 cases of simple offences against physical integrity characterized as domestic violence, 5 cases of simple offences against physical integrity, 1 case of serious maltreatment against a minor and 1 case of driving without a licence.

From these 13 cases, 12 have been decided by the court and the remaining case is still ongoing.

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

1. Crime of ordinary offences against physical integrity characterized as domestic violence - Case No. 0028/kcrime/2015/OESIC

Composition of judges : Single
Judge : João Ribeiro

Public Prosecutor : Ambrosio R. Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Court applied temporary detention

On 7 March 2015 the Oe-Cusse District Court examined evidence in a case of maltreatment of a minor involving the defendant BF who allegedly committed the crime against GdCF and MF who are the children of the defendant. This case allegedly occurred on 05 March 2015 in Oe-Cusse District.

During the preliminary examination the court decided to apply restrictive measures in the form of temporary detention against the defendant pending the continuation of the trial of this case.

The court has not yet set a date to continue this trial.

2. Crime of simple offences against physical integrity characterized as domestic violence –Case No. 31/kcrime/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Sentenced to 9 months in prison, suspended for 2 years

On 9 March 2015 the Oe-Cusse District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant AdC who allegedly committed the offence against his wife. This case allegedly occurred on 26 November 2014 in Oe-Cusse.

The public prosecutor alleged that on 26 November 2014, at 10am, the defendant punched the victim in the mouth, choked the victim because the victim verbally abused the defendant and slammed the bathroom door when the defendant was having a shower. These actions caused the victim to suffer an injury to her mouth and her neck was swollen. In this case a medical report and photos from Pradet Oe-Cusse were provided. This case allegedly occurred because the victim suspected the defendant of participating in a marriage celebration.

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 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted his actions in accordance with the charges of the public prosecutor and testified that he regretted the acts he committed against his wife.

In addition, the victim continued to maintain and corroborate the facts listed in the charges of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to hand down a prison sentence of 1 year, to be suspended for 2 years. On the other hand, the public defender requested for the court to provide justice to the defendant by considering the mitigating circumstances, namely the defendant admitted his actions, has 2 children and cooperated with the court.

After evaluating the facts revealed during the trial, the court concluded this case and sentenced the defendant to 9 months in prison, suspended for 2 years.

3. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 29/kcrime/2015/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Sentenced to 1 month in prison, suspended for 2 years and 6 months

On 9 March 2015 the Oe-Cusse District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant EdCQ who allegedly committed the offence against his wife LdFL. This case allegedly occurred on 29 October 2014 in Oe-Cusse District.

The public prosecutor alleged that on 29 October 2014, at 3pm, the defendant slapped the victim above her left eye, once in the mouth and once on the back of her neck. This case allegedly occurred because the victim went to her uncle's house without informing 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 (b) of the Law Against Domestic Violence.

During the trial, the defendant admitted his actions and testified that he committed the aforementioned crime because the victim took some wire mesh for filtering sand to her uncle's house without the knowledge of the defendant.

Although the defendant admitted his actions the court proceeded to hear the testimony of the victim. In her testimony the victim maintained the facts set out in the charges of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to apply a prison sentence of 2 years, suspended for three years, because the defendant admitted that he committed the acts against the victim.

On the other hand, the public defender requested for the court to provide justice to the defendant by considering the mitigating circumstances, namely the defendant admitted and regretted his actions, has 2 children and cooperated with the court.

After evaluating the facts that were established during the trial, the court concluded this case and sentenced the defendant to 1 year in prison, suspended for 2 years and 6 months.

4. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 30/kcrime/2015/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Sentenced to 1 year in prison, suspended for 2 years

On 9 March 2015 the Oe-Cusse District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant TL who allegedly committed the offence against his wife LdFS. This case allegedly occurred on 11 January 2015 in Oe-Cusse.

The public prosecutor alleged that on 11 January 2015, at approximately 10am, the defendant slapped the victim multiple times on her right ear, punched the victim twice on the right side of her stomach and pushed the victim to the ground. These actions caused the victim to suffer swelling to her hand.

This case allegedly occurred because the victim did not inform the defendant when the younger sister of the victim used their house to cook for a peace education

program. A medical report and photos from Pradet Oe-Cusse were provided in this case.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of the Law Against Domestic Violence.

During the trial, the defendant confessed and testified that he regretted his actions. The defendant also added that one month after the incident they reconciled and now they are living as husband and wife.

Because the defendant admitted the facts set out in the charges, in his final recommendations, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 2 years and 6 months.

On the other hand, the public defender requested for the court to provide justice to the defendant because he admitted his actions, had cooperated with the court, has 3 children and the parties have reconciled and are living as husband and wife.

After hearing the final recommendations of the parties, the court concluded this matter and sentenced the defendants to 1 year in prison, suspended for 2 years.

5. Crime of simple offences against physical integrity - Case No. 32/kcrime/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Settlement was validated

On 9 March 2015 the Oe-Cusse District Court conducted a hearing to attempt conciliation in a case of simple offences against physical integrity allegedly committed by the defendant Remigio G. de J. da Silva against Albina Tebi. This case allegedly occurred on 12 September 2014 in Naimeco Village, Pante-Makasar Sub-District, Oe-Cusse District.

The public prosecutor alleged that on 12 September 2014, at approximately 04:00am, the defendant was drunk and kicked down the wall of the victim's house measuring 6 meters, when the victim was asleep.

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

During the attempted conciliation the defendant confessed, regretted his actions and promised to pay for the damage suffered by the victim totaling US\$250. The victim agreed with this amount and therefore the victim withdrew the case.

Based on the agreement and request of the parties, the court validated the process and acquitted the defendant from this case.

6. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 33/kcrime/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Sentenced to 1 year and 6 months in prison, suspended for 2 years

On 10 March 2015 the Oe-Cusse District Court tried a case of simple offences against physical integrity involving the defendant BP against his wife LA. This case allegedly occurred on 28 September 2014 in Oe-Cusse District.

The public prosecutor alleged that on 28 September 2014 at 3pm, when the victim returned from a cultural event the defendant slapped the victim once on the back of the neck, once on the left and right sides. The defendant also kicked the victim on the right thigh and struck the victim on the back with a sandal.

This case allegedly occurred because the defendant prohibited the victim from attending the event but the victim still participated. A medical report and photos from Pradet Oe-Cusse were provided in this case.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of the Law Against Domestic Violence.

During the trial, the defendant admitted the facts alleged against him, admitted that he committed the aforementioned crime and regretted his actions.

Based on the confession of the defendant, in his final recommendations the public prosecutor requested for the court to hand down a prison sentence of 2 years, to be suspended for 2 years.

On the other hand the public defender believed that the defendant had confessed and regretted his actions and also promised not to reoffend in the future, but they have reconciled and have 7 children. Therefore, he requested for the court to provide justice to the defendant.

After evaluating all of the evidence in this case, the court concluded this matter and sentenced the defendant to 1 year in jail, suspended for 2 years.

7. Crime of simple offences against physical integrity - Case No. 07/sum/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Calisto Tout
Conclusion : Ordered to pay a fine of US\$ 90

On 10 March 2015 the Oe-Cusse District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant Martinus Quefi against Angelina Polo who was the neighbor of the defendant. This case allegedly occurred on 07 March 2015 in Pante Makassar, Oe-Cusse District.

The public prosecutor alleged that on 07 March 2015, at 4pm, the defendant punched the victim once on the left cheek, once on the nose and grabbed the victim's hair and threw her to the ground. This case allegedly occurred when the victim went and cried at the table where the body of the defendant's wife was placed and when the victim cried, the victim held the head of the dead person. Therefore, the defendant became angry and committed violence against the victim. In this case a medical report and photos from Pradet Oe-Cusse were provided.

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 stated that he did not punch the victim, but only dragged the victim outside. When giving testimony the victim maintained the facts listed in the indictment of the public prosecutor.

After hearing testimony from the defendant, the court decided to hear the testimony of three witnesses who were summoned by the court.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years.

In addition, the public defender considered that the defendant had confessed some of his actions and had cooperated with the court. Based on the mitigating circumstances, the public defender requested for the court to give justice to the defendant.

After hearing the final recommendations of the parties, the court concluded this process and ordered the defendant to pay a fine of US\$90 in installments of US\$1.00 for 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

8. Crime of simple offences against physical integrity characterized as domestic violence –Case No. 35/kcrime/2015/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Ordered to pay a fine of US\$ 90

On 19 March 2015 the Oe-Cusse District Court tried the defendant EL and the defendant JE for committing the crime of simple offences against physical integrity against the victim FE who was the husband of the defendant EL and father of the defendant JE. This case allegedly occurred on 24 August 2014 in Oe-Cusse District.

The public prosecutor alleged that on 24 August 2014, at 3pm, the victim deleted the memory card of a telephone belonging to the defendant JE because the victim felt bothered by the many porno videos that were spread across multiple phones. However the defendant EL was upset when the victim deleted the memory card. Therefore the defendant struck the victim twice in the head and grabbed the victim tightly from behind to give an opportunity to the defendant JE to choke the victim, punch him twice in the chest and bite a finger on his right hand which caused an injury. A medical report and photos from the Oe-Cusse Central Hospital were also submitted in this case.

The public prosecutor charged the defendants for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of the Law Against Domestic Violence.

Nevertheless, the court dismissed the charges against the defendant JE because he was considered to have no criminal responsibility because he was aged 15. Therefore, the court only proceeded with the trial against the defendant EL.

During the trial, the defendant EL confessed and admitted that she committed the aforementioned crime in accordance with the charges of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to hand down a sentence of 6 months jail, to be suspended for 1 year, because the defendant admitted her actions.

On the other hand the public defender requested for the court to consider the mitigating circumstances, namely the defendant admitted her actions, has 6 children and currently the parties are living together as husband and wife.

Based on the facts deduced during the trial, the court concluded this matter and sentenced the defendant to pay a fine of US\$ 90, to be paid in daily installments of \$1.00 for 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

9. Crime of simple offences against physical integrity characterized as domestic violence –Case No. 38/kcrime/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Calisto Tout
Conclusion : Ordered to pay a fine of US\$ 22.50.

On 19 March 2015 the Oe-Cusse District Court tried a case of simple offences against physical integrity involving the defendant TLP against her husband AS. This case allegedly occurred on 10 October 2014 in Oe-Cusse District.

The public prosecutor alleged that on 10 October 2014, at approximately 07:00am, the defendant three times struck the victim with clumps of dirt. The first one struck the victim on the back of the neck, the second one struck the lower part of his ear and the third one struck him on the left elbow. This case allegedly occurred

because the victim could not handle the demands of the household. Therefore, the victim planned to avoid them by going to Indonesia. However, when the defendant went looking for him, the victim was close to the Indonesian border so the defendant threw dirt at the victim. In this case a medical report and photos from Pradet Oe-Cusse were provided.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted her actions and expressed regret.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to pay a fine of US\$ 45 to be paid in daily instalments of \$1.00 for 45 days.

On the other hand the public defender referred to the mitigating circumstances, namely the defendant admitted her actions and has 4 children, and has reconciled, so the public defender requested for the court to provide justice when sentencing the defendant.

After hearing the final recommendations from the parties, the court concluded this matter and ordered the defendant to pay a fine of US\$22.50 in daily instalments of \$0.50 for 45 days. The court also stipulated an alternative punishment of 45 days jail if the defendant does not pay the aforementioned fine.

10. Crime of simple offences against physical integrity - Case No. 22/kcrime/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defenders : Calisto Tout and Afonso Gomes Fatima
Conclusion : Defendants were given suspended jail sentences

On 19 March 2015 the Oe-Cusse District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity allegedly committed by the defendants Antão Ulan, Jacinto Ulan and Moizes Ulan (brothers) against the victim Agustino Lasa. This case allegedly occurred on 25 June 2014 in Passabe Sub-District, Oe-Cusse District.

The court found that Jacinto Ulan punched the victim once on the back. The defendant Jacinto grabbed the victim tightly, so Antão Ulan punched the victim in the nose until he fell to the ground. Meanwhile, the court found that the defendant Moises Ulan pushed the victim into the kitchen. This case allegedly occurred because the victim went to the Sub-Village Chief to settle a dispute that had previously occurred between Antão Ulan and the victim.

Based on the facts produced during the trial, the court concluded this case and sentenced the defendant Antão Ulan to 6 months in prison, suspended for 1 year and 6 months. For the defendant Jacinto Ulan, the court sentenced the defendant to 6 months in prison, suspended for 1 year, and the defendant Moises Ulan was sentenced to 3 months jail, suspended for 1 year.

Previously, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During the trial the defendants admitted all of the alleged facts and regretted their actions.

11. Crime of simple offences against physical integrity - Case No. 28/kcrime/2015/TDO

Composition of judges	: Single
Judge	: João Ribeiro
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: The defendant CS was ordered to pay a fine of US\$45.00 and the other two defendants were acquitted

On 20 March 2015 the Oe-Cusse District Court conducted a trial to announce its decision in a case of simple offences against physical integrity committed by the defendants Cosmas Suni (older brother), Calisto Bobo Suni (father), Lucia Suni (younger sister) and Paulo Bobo Suni (younger brother) against the victim Estefanus Oki. This case allegedly occurred on 29 November 2014 in Pante-Makassar Sub-District, Oe-Cusse District.

After evaluating the facts relating to the aforementioned criminal act, the court found that only the defendant Cosmas Suni was guilty of committing the crime against the victim Estefanus Oki and the defendants Lucia Suni and Calisto Bobo Suni were not found to have committed any violence against the victim.

Based on these facts the court ordered the defendant Cosmas Suni to pay a fine of US\$45.00 in instalments of US\$1.00 per day for 45 days. The court also stipulated an alternative punishment of 30 days jail if the defendant does not pay the aforementioned fine.

Meanwhile, the court acquitted the other two defendants Calisto Bobo Suni and Lucia Suni, because the court could not prove their involvement in this case.

Previously, the public prosecutor alleged that on 29 November 2014, at approximately 9:00pm, when the victim met the defendant on the road, he ridiculed the defendant LS by saying “you are old and you are still not married yet”. Therefore, the defendant was unhappy and told the defendant Cosmas Suni and the defendant Paulo Bobo Suni. After hearing this information the defendant Cosma Suni immediately went and met with the victim on the road. The defendant then asked the victim why he had spoken like that and grabbed the victim and choked him, and the victim also grabbed the defendant and choked the defendant. The other three defendants grabbed the victim and twisted his head around. These acts caused the victim to suffer pain to his neck. A medical report and photos from the Oe-Cusse Referral Hospital were submitted as part of this process.

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

Previously the court only tried the three defendants and did not try the defendant Paulo Bobo Suni because he was aged 15 and according to the law he is still underage and has no criminal responsibility.

During the trial the defendant Cosmas Suni admitted his actions and expressed his regret.

Meanwhile the other two defendants testified that at that time they held the victim by the head to separate the victim and the defendant Cosmas Suni, but they didn't choke the victim or twist his head around. Nevertheless, the victim maintained the allegations of the public prosecutor.

In his final recommendations, the public prosecutor requested for the court to sentence the defendant Cosmas Suni to 9 months in jail, suspended for 1 year and the defendants Calisto Bobo Suni and Lucia Suni were sentenced to 6 months in prison, suspended for 9 months.

On the other hand the public defender considered that the defendants had confessed, cooperated with the court and regretted their actions, so he requested for the court to give justice to the defendant Cosmas Suni, in accordance with his wrongdoing and to acquit the defendants Calisto and Lucia from this case.

12. Crime of simple offences against physical integrity - Case No. 37/krime/2015/TDO^[1]

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Effective prison sentence of 3 years and 6 months

On 27 March 2015 the Oe-Cusse District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity allegedly committed by the defendant Domingos Meul Obe against Paulo Timo, Pedrus Timo Sila and Antonio Balan Colo. This case allegedly occurred on 03 June 2014 in Passabe Sub-District, Oe-Cusse District.

The court sentenced the defendant Domingos Meul Obe to an effective prison sentence of 3 years and 6 months after he was found guilty of committing the crime of simple offences against physical integrity against the victims Paulo Timo, Petrus Timo Sila and Antonio Balan Colo. In addition, the court also found that the defendant committed the crime of kidnapping against the victim Paulo Timo. A medical report and photos from the Oe-Cusse Referral Hospital were submitted in this case.

During the previous hearing, the defendant admitted his actions and tried to approach the victims to give US\$100 to each victim, however the victims wanted to be given US\$2,600 but the defendant was unable to do so. In addition, the victims maintained the facts listed in the indictment of the public prosecutor.

After hearing testimony from the defendant, the public prosecutor requested for the court to add the charge of kidnapping because the court proved that the defendant had locked up the victim for approximately 4 hours.

[1] Complete information about the legal facts that were established during the trial can be accessed on the JSMP website at: www.jsmp.tl under 2015 press releases: 'Oe-Cusse District Court sentences defendant to 3 years 6 months in prison in case of ordinary maltreatment and kidnapping 31-March-2015'

On the other hand, the public defender did not accept this request because in this case the victim Paulo Timo fell down and the defendant felt concerned and afraid when he saw the victim fall down. Also, the defendant was afraid that someone else might do something to the victim in his house, so the defendant locked up the victim in his house.

The witnesses JBC and JBTF who were aged just 14 and 15 testified that they did not see the incident.

In his final recommendations, the public prosecutor requested for the court to sentence the defendant to 4 years in prison because the defendant committed 3 crimes against 3 victims including the crime of kidnapping against the victim Paulo Timor.

On the other hand the public defender requested for the court to provide justice because the defendant admitted the facts, expressed regret, had cooperated with the court and has two children.

In addition, the public defender also believed that the defendant committed the crime against the victims Antonio Balan Colo and Petrus Timo Sila because victims came to his house at nighttime so the defendant felt afraid and had bad intentions against the victims.

13. Crime of driving without a licence - Case No. 08/krime-SUM/2015/TDO

Composition of judges : Single
Judge : João Ribeiro
Public Prosecutor : Ambrosio Rangel Freitas
Public Defender : Afonso Gomes Fatima
Conclusion : Ordered to pay a fine of US\$ 30.

On 30 March 2015 the Oe-Cusse District Court conducted an expedited trial in a case of driving without a licence involving the defendant Jacob Nessi on 27 March 2015, in Pante-Makassar Sub-District, Oe-Cusse.

The public prosecutor alleged that on 27 March 2015, at approximately 4pm, the Police Traffic Unit arrested the defendant and put him in the police cells because he was riding a motorcycle without a licence on the main road heading towards Palaban.

In this case the public prosecutor charged the defendant for violating Article 207 of the Penal Code on driving without a licence.

During the trial, the defendant admitted his actions and promised to get a licence. The defendant is a student at Senior High School.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to pay a fine of US\$ 30 to be paid in daily instalments of \$0.50 for 60 days.

On the other hand, the public defender requested for the court to provide justice for the defendant because the defendant regretted his actions, admitted the facts, was a first time offender, and cooperated with the court.

After hearing the final recommendations of the public prosecutor and public defender, the court concluded this matter and ordered the defendant to pay a fine of US\$30 in daily installments of US\$0.50 for 60 days.

The court also stipulated an alternative punishment of 40 days jail if the defendant does not pay the aforementioned fine.

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