



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
Dili District Court
28 July 2016

JSMP concerned about sentence handed down in case of sexual abuse of a minor, which was less than the minimum penalty set out in the Penal Code

JSMP is concerned with a sentence handed down by the Dili District Court in a case of sexual abuse against a minor on 19 July 2016, because this decision does not comply with the minimum penalty set out in the Penal Code. The court sentenced the defendant AA to 6 years in prison after finding him guilty of committing Aggravated Sexual Abuse against the victim who was 11 years old.

“This decision lacks sensitivity towards the circumstances of the child and fails to protect the victim as provided for in the law. The court needs to ensure that its decision complies with the law and has a deterrent impact to prevent such crimes in the future and to ensure public order,” said Luis de Oliveira Sampaio, Executive Director of JSMP.

JSMP observed that the sentence handed down by the court is less than the penalty provided for in Article 182 of the Penal Code on Aggravation and Article 177.2. According to the law, the minimum sentence aggravated by one third should be 6 years 8 months, not 6 years.

The court found the defendant guilty of violating Article 177.2 on the sexual abuse of a minor and any act of sexual relief with a minor aged less than 14 years.

The court found the defendant guilty of this crime based on the testimony of the victim and the victim's parents. Meanwhile, the defendant rejected all of the facts charged by the Public Prosecutor.

Previously, JSMP also expressed its disappointment with the decision of 6 years 8 months imprisonment handed down by the Dili District Court against the defendant in a case of sexual abuse against a minor who was aged 4 years old.¹

¹ Please refer to JSMP Press Release, 22 July 2016 entitled: Court Sentences defendant in case of sexual abuse against a child to 6 years and 8 months in prison - JSMP finds this decision falls short of providing

JSMP observed that violence against women and children, especially sexual abuse against minors, continues to increase every day. Therefore the Courts should be more sensitive to this reality and their decisions should have the ability to protect children and also to redress their suffering.

JSMP believes that this sentence is the bare minimum and does not reflect the psychological consequences suffered by the victim and therefore JSMP requests for the Public Prosecutor to lodge an appeal against this decision because it is less than the minimum penalty provided for in the law.

The Public Prosecutor alleged that on 25 October 2014 at approximately midnight the defendant, who works for the parents of the victim, went into the home of the victim and saw the victim and her mother asleep in the guest room. The defendant approached the victim and pulled the victim's underpants down. However suddenly the victim woke up because the defendant's hand touched the victim's thigh. The victim was startled when she saw the defendant standing in front of her. The victim tried to wake her mother, but the victim's mother did not wake up.

Then the victim woke up and grabbed her pants and ran into the room to wake up her father. The victim's father woke up and stepped into the guest room and saw the defendant run outside and hide behind a car. The victim's father caught the defendant and took him inside and asked him what had happened. In the morning the victim's father reported the case to the police and initiated criminal proceedings against the defendant.

This case was registered as Case No. 0168/14.DIBCR. The decision was read out by judge Antoninho Gonçalves representing a panel of judges, and the public prosecutor was represented by prosecutor Hipólito Exposto Santa. Meanwhile the defendant was represented by Rui Guterres from the Office of the Public Defender.

For more information please contact:

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justice - 22 July 2016 ([Pengadilan menghukum terdakwa kasus pelecehan seksual terhadap anak berusia 4 tahun dengan hukuman 6 tahun 8 bulan penjara- JSMP putusan ini jauh dari keadilan bagi – 22 Juli 2016](#)) or please click on the following link: http://jsmp.tl/wp-content/uploads/2016/01/PrAbuzuseksualbaidademennortinan4_Tetum.pdf