



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
Dili District Court
December 2016

A. Summary of the trial process at the Dili District Court

1. Total cases observed by JSMP: 20

Case Type	Total
Article 145 of the Penal Code and articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV) - Simple offences against physical integrity characterized as domestic violence	12
Article 138 of the Penal Code and articles 2, 3 and 35 (b) of the LADV – Murder characterized as domestic violence	1
Article 154 of the Penal Code and articles 2, 3 and 35 (a) of the LADV - Mistreatment of a spouse	1

Rua Beco Lakateu, Aldeia Manu fuik,
Suku Colmera, Administrativu Vera Cruz
Dili Timor Leste
PoBox: 275
Telephone: 3323883 | 77295795
www.jsmp.tl
info@jsmp.tl
Facebook: www.facebook.com/timorleste.jsmp
Twitter: @JSMPtl

Articles 299 and 274 of the Penal Code - Economic involvement in business and intentional mismanagement	1
Articles 314 and 322 of the Penal Code - Tax fraud and illegal gambling	1
Article 138 of the Penal Code - Manslaughter	1
Article 142 of the Penal Code - Infanticide	1
Articles 145 & 258 of the Penal Code - Simple offences against physical integrity and property damage	1
Article 145 of the Penal Code - Simple offences against physical integrity	1
Total	20

2. Total number of decisions observed by JSMP: 18

Type of decision	Total
Prison	2
Suspended sentences pursuant to Article 68 of the Penal Code	10
Suspended prison sentence pursuant to Article 68 and rules of conduct Article 70 (g) of the Penal Code	2
Fine (Article 67) of the Penal Code	1

Validating withdrawal of case	2
Acquitted	1
Total	18

3. Total cases adjourned, based on JSMP monitoring: 0

4. Total cases that are still ongoing, based on JSMP monitoring: 2

B. Short description of the decisions handed down

1. Crime of tax fraud and illegal gambling

Case No. : 0013/16. PNSIC
Composition of judges : Panel
Judges : Maria Modesta, Edite Palmira and Ivan Antonio Gonçalves
Public Prosecutor : Jacinto Babo Soares
Public Defender : Joana Cristina Pinto
Type of decision : Sentenced to 3 months in prison, suspended for 3 years

On 1 December 2016 the Dili District Court read out its decision in a case of tax fraud and illegal gambling involving the defendant SdR and the defendant JGS (husband and wife) who allegedly committed the crimes against the State, in Audian, Dili District.

The Public Prosecutor alleged that the defendants were involved in illegal gambling (casino) or gambling without obtaining permission from the State and on 1 January 2016 the police arrested the two defendants.

The public prosecutor charged the two defendants for violating Article 314 of the Penal Code on tax fraud that carries a sentence of 2 to 6 years in prison and for violating Article 322 of the Penal Code on illegal gambling that carries a maximum sentence of 3 years or a fine.

During the trial the defendants testified that before they started the gambling venture they went to the Department of Gambling/Gaming Inspection at the Ministry of Tourism to obtain permission to set up a gambling venture but the Department of Inspection stated that there was no law to regulate this type of gambling. The two defendants testified that they had already purchased the gaming machines and they observed that this type of gambling was already available at Timor Plaza, so the defendants decided to open up their gambling venture even though they didn't have permission. The defendants stated that only one month after they opened up the gambling venture the police arrested them and confiscated the gaming machines and money totaling US\$ 1,245.00.

The two defendants explained that they had 44 gaming machines that had been purchased for US\$27,000 from an Indonesian person who previously had a gambling venture at Zita Plaza. Their profit from one month of gambling was US\$8,000.

The witness MdS who is the general inspector of gambling at the Ministry of Tourism testified that the defendants had requested permission and this witness told them that Government Regulation No. 7/20199 regulates lotteries, roulette and *Kuru-Kuru*, however casino gaming was not yet provided for in the law.

The witness further testified that Government Regulation No. 7/2009 has been amended by Government Regulation No. 6/2016 which includes casino gambling, however with a requirement that US\$ 5000 must be provided for each machine and there needs to be a bank guarantee, and the machines must be of international quality and only those aged 18 and above are allowed to play the machines.

In his final recommendations the public prosecutor requested for the court to hand down a suspended prison sentence because the defendants admitted their actions.

Also, the public defender requested for the court to impose a fair and reasonable penalty against the defendants because they admitted their actions and from the outset they wanted to register their gambling venture but at that time there was no law on gambling.

After considering all of the facts the court found the two defendants guilty of committing the crime in accordance with the indictment of the public prosecutor and the two defendants had not paid tax which had resulted in loss to the State.

Based on the aforementioned evidence the court decided the matter and imposed a sentence of 3 years in prison for the crime of tax fraud and 1 year in prison for illegal gambling.

The court accumulated the two aforementioned criminal acts and imposed a single sentence of 3 years in prison, suspended for 3 years. The court also ordered the defendants to pay the tax they owed to the State totaling US\$1,245.22 including court costs of US\$ 20.00. Meanwhile, in relation to the machines and the money confiscated by the police, the court decided to hand them over to the State.

2. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No	: 0031/16.DINFT
Composition of judges	: Single
Judge	: Ivan Gonçalves
Public Prosecutor	: Gostavo da Costa
Public Defender	: Humberto Alves
Type of decision	: Ordered to pay a fine of US\$ 60.

On 5 May 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant SR who allegedly committed the offence against his wife in Dili District.

The public prosecutor stated that in May 2016 the defendant saw the victim walking with her friends. The defendant approached the victim and her friends and accused the victim of having another boyfriend. The defendant grabbed the victim, slapped her once on the back of the neck and once on her left cheek. The defendant then took a stone and struck the victim on the knee and once on her toes dislodging her toenail. The defendant and the victim were unmarried but had been living together since 2015, and the defendant went to live in his house.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant admitted all of the facts set out in the charges of the Public Prosecutor. The victim corroborated and reiterated the facts set out in the indictment and testified that although the defendant did not live with her, before the incident the defendant always rang her and gave her money.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year. The public defender asked the court to hand down a lenient penalty against the defendant.

After considering the facts established during the trial, the Court found the defendant guilty of assaulting the victim in accordance with the facts set out in the indictment. Based on the examination of evidence, the court concluded this process and ordered the defendant to pay a fine of US\$60 to be paid in daily instalments of US\$ 0.50 for 120 days. If the defendant does not pay this fine then he will be sent to prison for 90 days.

3. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No : 0137/16.DICMR
Composition of judges : Single
Judge : Sribuana da Costa
Public Prosecutor : Nelson de Carvalho
Public Defender : João de Carvalho
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 6 May 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant AA who allegedly committed the offence against his wife. This case allegedly occurred in Manleuana, Dili.

The public prosecutor testified that on 17 March 2016 the defendant asked the victim for US\$10, however the victim did not give it to the defendant because the defendant never gave money to the victim to hold on to. The public prosecutor alleged that the defendant struck the victim once on the right hand with a broom and caused an injury to the victim's hand. After the incident, the victim immediately reported the matter to the police.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant admitted all of the facts set out in the charges of the public prosecutor. In addition, the victim corroborated the facts set out in the indictment and testified that this was the first time that the defendant had struck the victim and he had not repeated his actions since.

In his final recommendations, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 3 years, considering that he was guilty of committing simple offences

against the physical integrity of the victim. The public defender requested for the court to order the defendant to pay a fine.

After evaluating the facts established during the trial, the court found that the defendant guilty of assaulting the victim. Based on this evidence, the court sentenced the defendant to 6 months in prison, suspended for 1 year.

4. Crime of simple offences against physical integrity

Case No	: 0100/16.PDBAU
Composition of judges	: Single
Judge	: Maria Solana Fernandes
Public Prosecutor	: Hipólito Martins Santa
Public Defender	: Manuel Sarmiento
Type of decision	: Validating withdrawal of case

On 6 October 2016 the Dili District Court conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving defendant MdN who allegedly committed the crime against his brother in law in Dili District.

This case allegedly occurred when the victim visited his wife (sister of the defendant) who was living separately from the victim because they had a problem in the past. The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a penalty of up to three years in prison or a fine.

During the attempted conciliation the victim testified that he wanted to withdraw the complaint because the defendant was his brother in law, even though previously the victim did not want to reconcile. The defendant agreed with the request of the victim to reconcile.

After the court sought confirmation with the public prosecutor and the public defender, as well as considering the request to withdraw the case and the amicable agreement between the two parties, the court validated the request for the case to be withdrawn.

5. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No	: 0308/16.DICMR
Composition of judges	: Single
Judge	: Sribuana da Costa
Public Prosecutor	: Osorio de Deus
Public Defender	: Fernando de Carvalho
Type of decision	: Sentenced to 2 months in prison, suspended for 2 years and 6 months.

On 6 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant IdC who allegedly committed the offence against her husband in Dili.

The public prosecutor testified that on 5 April 2016 the victim was away from the house for two weeks. When he returned home the victim went into a kiosk and took a can of Coca-Cola to drink, then the defendant threw some chili at the victim's eyes and body and struck the right and left hands of the victim causing injuries.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant admitted all of the facts set out in the charges of the Public Prosecutor. The victim also corroborated the facts set out in the indictment of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to hand down a prison sentence of 2 years, to be suspended for 3 years. The public prosecutor believed that the defendant was guilty of assaulting the victim because the defendant herself admitted all of the facts alleged by the public prosecutor.

The public defender requested for the court to impose a fair punishment. The public defender believed that the assault occurred because the victim had provoked the defendant because he had been away from the home for a long time.

After considering all of the facts, the court found the defendant guilty of committing the crime set out in the charges of the public prosecutor. Based on the aforementioned facts, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years and 6 months.

6. Crime of mistreatment of a spouse -

Case No	: 0035/15. DIDIL
Composition of judges	: Panel
Judges	: Jacinta Correia, Ana Paula Fonseca and Eugebio Vitor
Public Prosecutor	: Ivonia Guterres
Public Defender	: Sebastião de Almeida
Type of decision	: Sentenced to 3 years in prison, suspended for 5 years including rules of conduct

On 6 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity involving the defendant VdA who allegedly committed the offence against his wife in Dili District.

The public prosecutor testified that on 14 February 2015 at 2.00am the defendant was drunk and rang the victim to get her to tell someone to go and get the defendant from the place where he was drunk.

However the victim responded that nobody was home. Therefore, a friend of the defendant took the defendant home.

The public prosecutor charged the defendant for verbally abusing the victim, punching her once above the eye, kicking her once in the stomach, punching her once on the shoulder and searching for a machete to strike the victim. When the defendant was looking for a machete, the victim and her three children went to hide at the home of a neighbor. The public prosecutor also alleged that previously on 15 and 18 January 2015 the defendant struck the victim with the handle of a machete, punched her above the eye and threatened to chop up the victim and her children.

The public prosecutor charged the defendant for violating Article 154 of the Penal Code regarding mistreatment of a spouse that carries a penalty between 2 to 6 years in prison or a fine as well as articles 2, 3, and 36 of the LADV.

In the aforementioned hearing the defendant used his right to remain silent. Meanwhile, the victim confirmed all of the facts and testified that the defendant often hit the victim, especially when he came home drunk, however the victim never thought about reporting it. The victim only reported the latest incident because she felt she had suffered enough. After one week the defendant went and apologized to the victim at her temporary accommodation and they have been living in harmony since.

In his final recommendations the public prosecutor requested for the court to impose a punishment of 2 years in prison, suspended for 4 years, because the defendant was guilty of committing the crime against the victim. The evidence was based on the testimony of the victim and medical report that indicated signs of violence on the victim's body.

Meanwhile the public defender requested for the court to apply a prison sentence of 2 years, suspended for 3 years. The public defender stated that the defendant was a first time offender, has reconciled with the victim and has five children that need the defendant who is the breadwinner.

After considering all of the facts, the court found the defendant guilty of committing the crime of simple offences against the physical integrity of the victim. Based on the aforementioned evidence, the court sentenced the defendant to 3 years in prison, suspended for 5 years, and also imposed rules of conduct against the defendant who has to regularly report to the court once a month for 2 years.

7. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No	: 0249/16.DICMR
Composition of judges	: Single
Judge	: Eugebio Vitor
Public Prosecutor	: Osorio de Deus
Public Defender	: João Henrique
Type of decision	: Sentenced to 6 months in prison, suspended for 1 year.

On 9 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant AdS who allegedly committed the offence against his wife in Dili District.

The prosecutor's indictment stated that on 4 May 2016 the victim returned from the night market and only the children were at home so the defendant and the victim argued.

The public prosecutor alleged that the defendant slapped the victim once on the nose and the victim fell to the ground and the defendant stomped on the stomach of the victim. These actions caused the victim to suffer a bloody nose and pain to her stomach.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant admitted all of the facts listed in the indictment of the Public Prosecutor and testified that he regretted his actions and promised not to reoffend against the victim or anybody else. The victim corroborated the facts set out in the indictment of the public prosecutor.

In his final recommendations the public prosecutor requested for the court to impose a punishment of 6 years in prison, suspended for 1 year, because the defendant was guilty of committing the crime against the victim.

Meanwhile the public defender requested for the court to impose a fine against the defendant because the defendant and the victim were civil servants and also the mitigating circumstances, namely the defendant admitted his actions, had reconciled with the victim, was a first time offender and promised not to reoffend in the future.

After considering all of the facts established during the trial including the mitigating circumstances, the court found the defendant guilty of assaulting the victim as charged by the public prosecutor. Based on this evidence, the court sentenced the defendant to 6 months in prison, suspended for 1 year.

8. Crime of simple offences against physical integrity, characterized as Domestic Violence¹

Case No.	: 0576/14. DIDIL
Composition of judges	: Single
Judge	: Jumiati Maria Freitas
Public Prosecutor	: Nelson de Carvalho
Public Defender	: Agustina de Oliveira
Type of decision	: Sentenced to 8 months in prison, suspended for 1 year including rules of conduct

¹ JSMP was not able to observe the final recommendations of the Public Prosecutor and the Public Defender

On 9 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant EF who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 3 December 2014 the defendant and the victim had an argument. The defendant punched the victim, slapped her right cheek and kicked her once on the back. These acts caused the victim to suffer pain and bruising.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant admitted all of the facts set out in the charges of the public prosecutor. The victim corroborated the facts set out in the indictment of the public prosecutor.

The court found the defendant guilty of committing simple offences against the physical integrity of the victim in accordance with the charges of the public prosecutor. Based on the aforementioned evidence, the court decided the matter and sentenced the defendant to 8 months in prison, suspended for 1 year, and also imposed rules of conduct against the defendant who has to regularly report to the Dili District Court once a month for 1 year.

9. Crime of infanticide

Case No. : 0169/11.PDDIL

Composition of judges : Panel

Judges : Jumiati Maria Freitas, Antonio do Carmo and Albertina Neves

Public Prosecutor : Jose Elu

Public Defender : Jose da Silva

Type of decision : Sentenced to 4 years in prison

On 12 December 2016 the Dili District Court read out its decision in a case of infanticide involving AdC who allegedly committed the crime against her new born baby in Dili District.

The public prosecutor testified that on 12 December 2011 the defendant gave birth to a baby in a plantation. After giving birth, the defendant choked the baby and caused its death. The defendant left the body of the baby in the plantation and then a dog ate the arm and head of the victim. A neighbor found the baby's body and immediately reported it to the police. The defendant killed her baby because she was afraid of her family and because the man who got her pregnant did not want to take responsibility.

The public prosecutor charged the defendant for violating Article 142 of the Penal Code on infanticide that carries a sentence of 3 - 10 years in prison.

During the trial the defendant testified that she choked her baby and she admitted that she left the body in the plantation because she was dizzy after losing a lot of blood. The defendant also testified that while she was pregnant she hid it from her family because the man who got her pregnant did not want to take responsibility for her and the baby.

In his final recommendations the public prosecutor requested for the court to impose a fair sentence because the defendant was clearly guilty of killing her baby. The public prosecutor believed that the defendant had a plan to kill her baby because the man who got her pregnant did not want to take responsibility and she was afraid of her family.

Meanwhile the public defender requested for the court to uphold justice for the defendant. The public defender believed that the defendant had given birth to the baby but when she suffered heavy bleeding the defendant felt dizzy and the defendant left her baby. Also, the defendant was a first time offender and regretted her actions.

After considering all of the facts the court found that the defendant intended to kill her baby because she did not give birth at home, but in a plantation. In addition, the defendant did not inform her family about

her pregnancy because the man who got her pregnant did not want to take responsibility. Based on the facts that were proven during the trial, the court concluded the case and sentenced the defendant to 4 years imprisonment.

10. Crime of simple offences against physical integrity and property damage

Case No : 0120/16.DICMR
Composition of judges : Single
Judge : Jacinta Correia
Public Prosecutor : Jose Elu
Public Defender : Manuel Lito Exposto
Type of decision : 6 months in prison

On 12 December 2016 the Dili District Court read out its decision in a case of property damage and simple offences against physical integrity involving the defendant DdD (security guard) against the victims BA and MA who were his employers in Bairro-pite, Dili District.

The public prosecutor testified that the defendant was a security guard at the home of the victim BA and for 4 months the victims had not paid his salary. The public prosecutor alleged that on 25 January 2015 the defendant kicked the door of the victim's house. Therefore, the victim MA (child of the victim BA) was shocked and went to open the door but when the victim MA was opening the door, the defendant again kicked the door and MA's finger was jammed in the door and injured. After the door was opened, the defendant went inside and kicked the door of the house, destroying it.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as violating Article 258 of the Penal Code on property damage that carries a maximum penalty of 3 years or a fine.

During the trial the defendant admitted all of the facts set out in the prosecutor's indictment and testified that he committed the crime because victims did not respond appropriately when the defendant asked for his salary for 4 months that the victim BA owed to him.

In addition, the victims corroborated and strengthened the facts set out in the prosecutor's indictment and testified that they did not pay the defendant because the defendant never worked as a security guard and only asked for money each month.

The witness MM who is a waiter at the victim's restaurant corroborated the testimony of the victims and added that the defendant also tried to kick the witness but missed, and kicked the door and damaged it.

In his final recommendations the public prosecutor requested for the court to impose an effective prison sentence of 6 months to deter the defendant from committing crimes in the future because the defendant was guilty of committing the crimes set out in the prosecutor's indictment.

Meanwhile, the public defender requested for the court to acquit the defendant because the defendant committed the crime due to provocation of the victim who did not pay his salary for 4 months. In addition the defendant has 3 children and he regretted his actions.

After considering all of the facts, the court found that the actions of the defendant fulfilled the elements of the crime of simple offences against physical integrity and property damage. Therefore, based on the evidence that was proven, the court decided the matter and sentenced the defendant to 6 months in prison. The court handed down an effective prison sentence against the defendant because the defendant had a criminal record.

11. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No. : 0019/16DIBCR
Composition of Judges : Single

Judge : Maria Solana Fernandes
Public Prosecutor : Ivonia Maria Guterres
Public Defender : Joana Cristina Pinto
Type of decision : Suspended prison sentence

On 12 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant CS who allegedly committed the offence against his wife and child in Dili District.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

The court found that on 1 February 2016 the victim was cooking satays and the defendant and his children were watching TV. The victim asked for the children to help the victim cook the satays and the victim then turned off the TV. The court also found that the defendant unintentionally raised his arms (reflex action) and struck the victim and the face of his child.

The court found that after the incident the defendant and the victim lived separately and after 3 months they reconciled. The court also proved that the defendant committed a joinder of crimes because the defendant committed the crime against two people.

After evaluating all of the facts, the court concluded this case and sentenced the defendant to 1 year and 6 months in prison, suspended for 2 years, and also ordered the defendant to pay court costs of US\$ 10.00

12. Crime of simple offences against physical integrity, characterized as Domestic Violence²

² JSMP was not able to monitor the hearing of evidence

Case No : 0062/16. DICMR
Composition of judges : Single
Judge : Albertina Neves
Public Prosecutor : Osorio de Deus
Public Defender : Fernando L. de Carvalho
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 12 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity involving the defendant JPC who allegedly committed the offence against his wife in Dili District.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

The court found that on 30 January 2016 at 10pm the defendant and the victim argued. The defendant choked the victim, slapped her once on the forehead and kicked her once in the legs. The court found that the actions of the defendant caused the victim to suffer pain and swelling to her neck, feet and forehead.

The court also found that before the defendant committed the assault, the victim went to call the defendant at the home of his sister to ask him to come home because the defendant's child was crying and looking for the defendant, but the defendant refused to go back because he was with a traditional healer who was treating his father at the home of his sister.

After considering all of the facts established during the trial and considering all of the circumstances relating to the aforementioned criminal act, the court decided the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

13. Crime of manslaughter³

Case No.	: 0108/15. LIBZT
Composition of judges	: Panel
Judges	: Maria Modesta, Edite Palmira and Ivan Patricinio Antonio Gonsalves
Public Prosecutor	: Osorio de Deus
Public Defender	: Manuel Exposto
Type of decision	: Acquitted

On 12 December 2016 the Dili District Court read out its decision against a case of manslaughter involving the defendant BSC and the victim RdS (deceased) who was the sister of the defendant, in Liquica District.

The public prosecutor alleged that on 27 October 2015 the defendant installed electricity around his yard because previously an unidentified person went into his yard and stole animals and goods that were in the kitchen. On 28 October 2016, at 10.00 am, the victim was electrocuted and died instantly.

The public prosecutor charged the defendant for violating Article 138 of the Penal Code on manslaughter that carries a sentence of 8 - 20 years in prison.

During the trial the defendant admitted that he installed the electricity on 27 October to prevent anyone else from entering his yard and stealing his goods, because his goods and animals always went missing. After that, the defendant disconnected the electricity supply but the victim herself reconnected the electricity. After installing the electricity, on the evening of 28 October the electricity went out and the victim forgot to disconnect the electricity supply. In the morning the defendant and his children all went to school and suddenly a neighbor came and said that the victim had died because she had been electrocuted.

³ JSMP was unable to observe the final recommendations from the Public Prosecutor and the Public Defender

The defendant went home and saw the body of the victim in the yard. The defendant picked up the victim and took her inside.

The witness EC (mother of the defendant and the victim) testified that the defendant installed the electricity supply to prevent thieves from entering their house but the defendant removed/disconnected the electricity. The victim went and reconnected the electricity supply and forgot to disconnect it. In the morning the victim went into the yard and was electrocuted. The witness added that the witness only found the victim after approximately one or two hours, and the victim was upright near the water tank in the plantation. The witness grabbed the victim but her body was cold and then the witness started crying and screaming.

The witness AMP (wife of the defendant) testified that she did not witness the incident but she stated that the defendant and the victim had installed the electricity supply around the plantation because thieves always went in and stole from their house.

After examining all of the facts, the court found that the defendant had connected the electricity supply around the plantation but then disconnected the supply and in the end the victim herself had reconnected it and forgot to unplug the cable which ultimately led to the victim being electrocuted when she was in the yard and she died on the spot.

Based on these facts the court concluded the matter and acquitted the defendant from the charges because the court found that the death of the victim was not the fault of the defendant.

14. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No. : 0259/16.DICMR
Composition of judges : Single
Judge : Jacinta Correia da Costa

Public Prosecutor : Osorio de Deus
Public Defender : Sergio Dias Quintas
Type of decision : Sentenced to 1 year in prison, suspended for 1 year and 6 months, and rules of conduct were also imposed

On 14 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant MdL who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 22 May 2016 a neighbor went to the home of the victim to ask for money that the victim had borrowed, and so the defendant kicked the victim once in the back. The victim ran away but the defendant chased her and kicked her again on the back causing her to fall down. The defendant dragged the victim into the guest room and cut the victim's hair short. These actions caused the victim to suffer an injury to her mouth, swelling to her forehead, and pain to her back. The victim received treatment at the hospital for two weeks. Previously, the victim always borrowed money from many people.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant confessed and confirmed all of the facts listed in the indictment of the public prosecutor and testified that the victim often borrowed money without the knowledge of the defendant and the defendant always paid when people came and asked for their money.

In addition, the victim corroborated the facts set out in the indictment of the public prosecutor and strengthened the testimony of the defendant that she always borrowed money from many people and the defendant paid it back. The victim also testified that she borrowed the money because the defendant did not provide enough money.

In his final recommendations the public prosecutor requested for the court to impose a punishment of 1 year in prison, suspended for 1 year and 6 months, because the defendant was guilty of committing the crime as set out in the charges of the public prosecutor.

Meanwhile, the public defender requested for the court to impose a lenient penalty on the defendant because the defendant admitted his actions, has reconciled with the victim even though they were separated for several months. The public defender mentioned that the defendant committed the crime because the victim always borrowed money from many people without the knowledge of the defendant.

After considering all of the facts, the court found that the defendant was guilty of committing the assault as charged by the public prosecutor. The court considered that when the defendant cut the victim's hair, he subjected her to a form of psychological pressure. Therefore the court told the defendant about the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Based on the aforementioned evidence as well as the medical report, the court decided the matter and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months, and also imposed rules of conduct against the defendant who has to report to the court once a month for the duration of his probation.

15. Crime of simple offences against physical integrity

Case No.	: 0149/16.DIDIL
Composition of judges	: Single
Judge	: Eugebio Xavier Vitor
Public Prosecutor	: José Elu
Public Defender	: Sérgio Paulo Dias Quintas
Type of decision	: Validating request to withdraw the case

On 14 December 2016 the Dili District Court attempted conciliation in a case of ordinary maltreatment against physical integrity, allegedly committed by the defendant NdS against the victims DS and MD, in Dili District.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a penalty of up to three years in prison or a fine.

During the attempted conciliation, the victims stated that they were willing to withdraw the complaint because the defendant had apologized to them. The defendant also agreed with the request of the victims.

After the court sought confirmation with the public prosecutor and the public defender, and considered the request to withdraw the case and the amicable agreement between the two parties, the court validated the request for the case to be withdrawn.

16. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No.	: 0037/16. DIBCR
Composition of judges	: Single
Judge	: Ivan Patricinio Antonio Goncalves
Public Prosecutor	: Nelson de Carvalho
Public Defender	: Estaque Pereira Guterres
Type of decision	: Sentenced to 9 months in prison, suspended for 1 year and 6 months and ordered to pay court costs of US\$ 10.00

On 14 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant JF who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 15 March 2016 at 7pm the defendant and the victim had an argument. The defendant slapped the victim once on her right cheek, twice punched her on the back, punched her one time to the head and pushed the victim who fell to the floor. These actions caused the victim to suffer pain and swelling to her cheek and back.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial the defendant used his right to remain silent. Meanwhile, the victim corroborated all of the facts listed in the indictment of the public prosecutor and testified that before the case went to court they settled it in accordance with traditional means and now they are living together as husband and wife.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 2 years in prison, suspended for 3 years, as well as ordering him to pay court costs. Meanwhile the public defender requested for the court to impose a lenient penalty against the defendant because they have reconciled and he is the sole breadwinner of the family.

After considering all of the facts, the court found the defendant guilty of committing the crime set out in the charges of the public prosecutor. Based on the aforementioned evidence the court concluded this case and sentenced the defendant to 9 months imprisonment, suspended for 1 year and 6 months, and he was ordered to pay court costs of \$ 10.

17. Crime of simple offences against physical integrity, characterized as Domestic Violence

Case No.	: 0380/16. DICMR
Composition of judges	: Single
Judge	: Ivan Patricinio Antonio Goncalves

Public Prosecutor : Osorio de Deus
Public Defender : Cândia Xavier
Type of decision : Sentenced to 6 months in prison, suspended for 1 year and 6 months.

On 15 December 2016 the Dili District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence, involving the defendant JP (citizen of the Philippines) who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 24 June 2016 at 7pm the defendant returned home after work and was drunk. He smashed a plate and grabbed things from a cupboard and threw them outside. The defendant took a piece of wood to stab the victim but did not manage to do so because the victim and the defendant fought for control over the piece of wood. When they were fighting over the piece of wood the defendant choked the victim and punched her once above the eye which caused swelling and bruising.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as articles 2, 3 and 35 (b) of the LADV.

During the trial, the defendant only admitted some of the facts and testified that he did not punch the victim but when a sibling of the victim grabbed the defendant he moved his hand in a reflex action and his hand struck the victim above the eye. The defendant also testified that after returning from his detention in a police cell, the defendant immediately apologized.

Meanwhile the victim continued to confirm the facts set out in the prosecutor's indictment and testified that none of the victim's younger siblings grabbed the defendant because they are all still very young.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 1 year, considering that all of the facts had been proven.

Meanwhile, the public defender requested for the court to apply a penalty of 6 months in prison, suspended for 1 year, based on the mitigating circumstances such as the fact that the defendant apologized to the victim, has not repeated his actions and is the breadwinner of the family.

After considering everything presented during the trial, the court found that the defendant did indeed commit the assault as charged by the public prosecutor. Based on the aforementioned evidence the court concluded this case and sentenced the defendant to 6 months imprisonment, suspended for 1 year, and the defendant was also ordered to pay court costs of US\$ 50.

18. Crime of economic involvement in business and intentional mismanagement

Case No.	: 1212/12. PDDIL
Composition of judges	: Panel
Judges	: Jose Maria, Francisca Cabral and Maria Solana
Public Prosecutors	: Angelina Saldanha, Jacinto Babo and Lidia Soares
Public Defenders	: Jose Guterres, Pedro Camoês and 4 international private lawyers
Type of decision	: Sentenced to 7 years imprisonment and 4 years imprisonment

On 20 December 2016 the Dili District Court read out its decision in a case of economic participation in business and intentional mismanagement involving the defendants EP and MH who allegedly committed the crimes against the State, in Dili District.

The public prosecutor alleged that in 2012 the Deputy Minister of Health submitted a request to the Prime Minister, Xanana Gusmão, to authorize emergency funds for the Ministry of Health totaling US\$ 1,300.000. The money was to be used to purchase electrically operated beds at the VIP section for hemodialysis and the purchase of more than 80 manually operated beds to be installed at the Guido Valadares National Hospital (HNGV). This request was submitted with the justification that there were not enough beds for patients, and this was causing problems.

The prosecution alleged that the defendant, MH, submitted another request to the PM Xanana Gusmão to apply single source procurement for the project to purchase beds from a company owned by the husband of the defendant EP who resides in Australia.

Meanwhile, the prosecution alleged that in 2012 after PM Xanana authorized the emergency funds the defendant EP set up a new bank account at ANZ to help her husband receive the money in Australia to purchase the goods.

The prosecution alleged that the two defendants often had preparatory meetings to oversee the purchase of the beds, including a meeting to decide on single source procurement. The actions of the two defendants caused the State to suffer a loss of US\$ 280,000.

The public prosecutor charged the two defendants for violating Article 274 of the Penal Code on intentional mismanagement and for violating Article 299 (1) and (2) on economic involvement in business.

In the aforementioned trial the defendants EP and MH used their right to remain silent. The witness MS who is the Director of Logistics at the Ministry of Health testified that in 2012 he received more than 80 beds in good condition and the witness himself submitted them to the Guido Valadares Hospital in April 2013. In relation to the tender process, the witness did not testify that he had knowledge about this process.

The witness NM who was the former Minister of Health testified that the plan to purchase the electrically operated beds was in accordance with a program of the Ministry of Health that from the outset planned to modernize the Hospital. In the 2010 State Budget the Ministry of Health had made a proposal but it was not authorized by a budget assessment team through annual funding. Therefore, the witness had knowledge about a request for emergency funds from the defendant MH to the Prime Minister Xanana.

The witness added that when the defendant MH submitted the request, the witness was overseas and authority had been delegated to the defendant, the Vice Minister of Health. The witness also sent a request to the Ministry of Finance to provide an explanation/justification that there was a need to purchase beds in accordance with the request submitted. Meanwhile, in relation to the other request from the defendant MH to PM Xanana for single source procurement to purchase the beds, the witness stated that he did not know about it.

The witness OV, who was the former Director of the National Hospital, stated that he did not know about the request to purchase beds because when the beds were distributed the witness had finished his mandate. Meanwhile the defence team (representing the defendants) stated that the defendants submitted a request for the beds based on a request from the National Hospital in 2012 that they were facing problems due to a lack of beds, and the witness responded that perhaps the request originated from the administrator of the National Hospital when the witness was overseas, so he did not know about it.

The witness AdC, who was the technical oversight officer at the Ministry of Health testified that in 2012 the witness received a request from the defendant (Minister of Health) to execute the emergency funds in accordance with the existing regulations. The witness added that the tender/award of project was not carried out by a special team to evaluate the contents of all of the requests from the Ministry of Health, therefore the witness did not know who decided to proceed with single source procurement and who owned the company that won the project to purchase the beds.

The witness JdS, who was a technical oversight officer at the Ministry of Health testified that he himself had checked the beds provided by the company to the Ministry of Health and had prepared a report to the Minister of Health that the beds were all in good condition. After making the report the witness immediately submitted a request for payment to the Ministry of Finance to pay the aforementioned company.

The witness AF who was the head of procurement at the Ministry of Health in 2011 and 2012 testified that he had made the request for single source procurement for the project to purchase the beds based on a decision from the defendant MH. The witness stated that the decision included an agreement to engage in single source procurement from the Prime Minister with the company Metal Craft located in Australia.

The witness added that for ordinary projects or projects that are not single source a tender must be evaluated by the Council for the Procurement of Goods and Services of the Ministry of Health and when a decision had been made to award the tender to a company, then procurement would make a final decision. The witness also stated that the proposal only included the purchase of manually operated beds, not electrically operated beds.

The witness JS, who was the head of the Department of Finance, Ministry of Health, testified that he has forgotten many things relating to the project, especially the process to validate the single source procurement, however the witness stated that the project was based on emergency funds. In addition, the witness managed to conduct an inspection, and make a report to the Ministry of Finance to make payment.

The witness RdJ, who was the Administrator of the testified that he had submitted a proposal to purchase the beds because there was a lack of beds and many patients were suffering from dengue fever, and two patients were sleeping on the same bed. The witness also stated that many of the beds were rusted and had been re-welded. The witness added that his request included the purchase of electrically operated beds to facilitate hemodialysis.

The witness explained that several years earlier, they made a number of proposals to request facilities for the hospital however the proposals were never accepted. Therefore, when he was called by the procurement section of the Ministry of Health and told that a proposal could be prepared for the purchase of additional goods the witness immediately drafted the proposal and made a direct recommendation for the beds to be purchased.

The witness JA, who was the Director of Finance at the Ministry of Health, testified that he prepared the CPV for the Ministry of Finance to make the payment, however he did not know who had decided on the single source method. The witness added that while he has been the Director of Finance at the Ministry of Health he submitted two requests for emergency funds for the purchase of beds.

The witness PM, who was the driver of the defendant MH, testified that the witness was instructed by the defendant MH to pick up the defendant EP at her house (he did not recall the date). Upon arrival, the witness met with the defendant EP and her husband. The defendant and her husband used another car to follow the witness to the home of the defendant MH. The witness testified that he waited some time while the two defendants and the husband of the defendant EP had a conversation. The witness added that previously (he could not recall the date) the defendants MH and EP had lunch together at the Nelayan Restaurant. The witness said that while he was a driver for the defendant MH, he never saw the defendant MH eat together with any other Minister or Secretary of State.

The witness GdS, who was the Personal Assistant to the Minister of Health, testified that the two defendants had lunch with the husband of the defendant EP including other directors at the Ministry of Health at the home of the defendant MH. In addition, the witness stated that the defendants also had lunch together on two occasions at Chinese Food, in Bidau-Akadiruhun and the Nelayan Restaurant. However the witness did not know what the two defendants discussed.

The witness MdC, who was the Director of the National Department for Planning, Oversight and Evaluation at the Ministry of Health, testified that he was involved in examining the beds when they were received from the company however the examination only focused on the quantity. The witness added that they received the beds in 2012 and they were inspected twice.

The witness MRS, who was a finance officer at the Ministry of Finance, and now the Head of Procurement of Goods and Services at the Ministry of Health, testified that after he took the position he found out that the process of purchasing beds had not been done properly.

The witness LB, as the Director of National Administration, Logistics and the Procurement of Goods and Services at the Ministry of Health, testified that in 2012 the Vice Minister of Health submitted a proposal to the Ministry of Finance and a list relating to the purchase of beds was prepared by the Procurement Section and he himself signed it. The witness added that the normal process through the inspection committee is to verify the goods and Procurement will conduct an evaluation and make a recommendation to his superior for approval. However, according to the witness he was not directly involved in this project but he still recalls that on 3 February 2012, he received a justification from the Office of the Vice Minister of Health that was filed in his department.

The witness FB, as the head of the Logistics Department at the Ministry of Health, testified that in 2011 and 2012 the witness continued to study in Indonesia, so the witness did not know about the project. However between 2007 and 2009, when the witness was still working as the Head of Logistics, and also as a nurse, the witness admitted that at Guido Valadares National Hospital there was a lack of medicine and the beds needed to be replaced because many of them were rusted.

The witness JB, who was the Deputy Director of ETDA, testified that between 2011 and 2012 he was contacted by the husband of the defendant EP (owner of the Metal Craft company that won this project) to help find a technician who could install the beds. The witness then was able to get 4 technicians. Then the witness went to the airport to pick up a technician from Australia who was working as a trainer to provide training on how to install the electrically operated beds.

The witness then testified that the technician from Australia provided one day of training to the technical team, and accompanied the technicians when they were installing the beds at the Guido Valadares National Hospital for one day and then on the following day the technical team of four people continued to install the beds. The witness added that the Director of ETDA was the younger sister of EP.

The witness MA (former PM) testified that he did not know about the process to purchase beds for the Ministry of Health but in 2012 he visited the hospital and saw that many patients had dengue fever and many patients were sleeping in the patient room because there was not enough beds.

For this reason the witness stated that he issued a political statement to the media to request the immediate intervention of the Government to deal with this situation.

The witness SL who was the former Minister of Health testified that he did not know about the project to purchase the beds because when he started his mandate in 2012 he accepted and signed a request for the second stage of payment for the purchase of the beds. However he did not know about the request for emergency funds and single source procurement because the request had previously been made by the Minister and her deputy. The witness also testified that at that time the request for the beds were necessary because the Hospital had a lack of beds and the condition of the beds was below standard.

The witness XG, who at that time was the Prime Minister, testified that he signed the request from the Ministry of Finance to use the emergency funds and to pursue single source procurement totaling US \$2 million for the purchase of beds. The witness added that the money was not only used to purchase beds but also to purchase several items that were listed in the request from the Ministry of Health.

The witness also testified that he signed the request because it was clear and in accordance with the conditions to obtain emergency funds, because the lack of beds was a real problem at that time. In addition, the witness added that the request from the Minister of Health was submitted in 2010, however it did not eventuate because there was insufficient funds and after 2012 the need increased because many citizens were suffering from dengue fever at the hospital and there was a lack of beds, and this is why the defendant accepted the request to purchase beds for the hospital.

In his final statement the witness explained that the two defendants had not committed misconduct, but rather the two defendants followed an instruction to uphold the interests of the general public.

The witness AS, who was the Director of Procurement of Goods and Services in 2011 and 2012, testified that he did not know about the process to purchase beds because the project was a single

source procurement and it was in the hands of high ranking officials. The witness only knew that the initiative to purchase the beds came from the defendant MH.

The witness IdRG, who was an advisor at the Ministry of Health, testified that he submitted the request to the Ministry of Health to authorize the use of emergency funds for the Ministry of Health based on an instruction from MH. However he did not know about the single source method and other processes.

The witness LL, who was a patient receiving treatment at the Guido Valadares National Hospital, testified that in 2012 he wanted to get an operation however because of a lack of facilities, the witness had to get treatment overseas.

The witness JdC (technical team), who was working as a mechanic at the motor vehicle workshop, testified that he was not a technician. He was contacted by the witness JB to install the electrically operated beds for two days at the Guido Valadares National Hospital for the price of US\$ 20. The witness testified that he was only able to install the electrically operated beds after receiving training given by a technician from Australia. The witness added that he normally installed facilities, including fixing ETDA vehicles.

The witnesses CG and HM who are friends of the defendant EP testified that EP did not have any bad intention against the State and the defendant was a person who had a lot of enthusiasm for serving the State.

The witness JRH, who at that time was the President, testified that between 2010 and 2012 he visited the referral hospitals such as Maliana, Maubisse and Guido Valadares National Hospital, and many patients were sleeping on the floor. In addition, several MPs often criticized the Government for this situation, after 2014, he returned to the hospital and saw the changes in the facilities.

The witness JAV, who is the General Director of the Ministry of Finance, testified that he knew about the approval of a project for the purchase of beds from the Prime Minister but he did not know when the process took place.

The witness RH, who was the deputy Minister of Finance, testified that he only knew that the hospital had a lack of beds when the defendant MH brought this problem to the attention of the Council of Ministers and he knew that the request for emergency funds was approved by the Prime Minister, however the witness did not know about what happened with the project because the defendant EP did not involve the witness in the entire process. The witness testified that the defendant EP contacted the General Director of the Ministry of Finance and the technical team.

The witness also testified that when it was time to purchase the beds, the witness heard a conversation between the defendant EP and the Minister of Health over the telephone asking the Ministry of Health to view the beds in Australia.

The witness DB, who was responsible for internal oversight at the ANZ Bank, testified that the account of the defendant EP's husband was an individual account but the defendant EP could access the account. The witness added that this was not a joint account between the defendant and her husband because a joint account requires two people.

The witness NPA, who is an expert on PSIC, provided the results of an internet survey on the prices of electrically operated beds. The witness conducted a survey on many companies in China, Malaysia, Singapore and Australia. The witness said that each country has a different range of prices for beds and only an expert on market prices could explain why this happens.

The witness JP, who is an international expert on marketing, testified that normally beds provided by companies meet international standards. In relation to quality, the witness said that it depends on price. Good brands that are expensive will ensure good quality.

In his final recommendations the prosecution stated that between 2011 and 2012 the two defendants conspired to profit from the project to purchase beds by awarding the project to the Metal Craft company. The public prosecutor stated that the two defendants used their position to intentionally violate the Law on the Procurement of Goods and Services relating to the procedure for requesting money known as single source procurement (in reference to the defendant MH) and the two defendants awarded the project to a person who has a direct relationship (husband) with the defendant EP (owner of the Metal Craft company).

The public prosecutor stated that the defendants EP and MH violated the principles of transparency and independence.

Based on these considerations the prosecution requested for the court to sentence the two defendants to 10 years in prison and to order the two defendants to pay civil compensation to the State of US\$100.000 (to be paid jointly).

Meanwhile, the defence requested for the court to acquit the two defendants because the defence believed that the initial plan to purchase the beds came from the Ministry of Health and the defendant MH was the Vice Minister and received an order from the Minister to carry out the plan. The Minister himself in his testimony had not doubt about the quality of the beds, and several witnesses corroborated that the beds were good quality and were used in hospitals across Timor-Leste.

In relation to validating the process to purchase beds, the defence stated that it followed the appropriate rules of procurement and involved the Ministry of Finance and the Ministry of Health, and was not carried through the Department of the Vice Minister of Health.

The defence stated the Public Prosecution Service did not present evidence that the defendant MH misused her position to provide a direct economic advantage for herself or for another person (the defendant EP and her husband).

In addition, the defence stated that the role of the Ministry of Finance is to verify financial matters. The verification is given to the Prime Minister for approval. After approval the Ministry of Finance hands it over to procurement and oversight for processing in accordance with their authority. Because this project involved the Ministry of Health, therefore the Ministry of Health was authorized to carry out procurement.

The defence reiterated that the defendant EP did approve the procurement, did not select the contractor, did not conduct negotiations and did not sign a contract because the defendant did not have the authority. The defence added that a person cannot be responsible for the actions carried out by someone else and it is impossible to say that the two defendants colluded, given that the Prime Minister gave his approval.

After evaluating the facts established during the trial the court found the defendant Emilia Pires guilty of violating Article 299.1 of the Penal Code on the crime of economic involvement in business as well as violating Law No. 10/2005 amended by Law No. 1/2010 on Procurement. The court found that the defendant used her authority as the Minister of Finance to obtain a profit for herself. The defendant involved her husband WM, as the Director of the MAC'S Metal Craft Company, as the only company involved in a project to purchase beds for the Ministry of Health.

The defendant EP was guilty of setting up a joint account at ANZ Bank with her husband which was the official account of the MAC'S Metal Craft Company. The account received the transfer of money from the Ministry of Health for the project to purchase beds.

In relation to the defendant MH, the court found the defendant guilty of aiding this case and violating Article 299.1 of the Penal Code on the crime of economic participation in business and Law No. 10/2005 amended by Law No. 1/2010 on Procurement during the decision making process regarding the purchase of beds for the Ministry of Health using single source procurement and not through the Evaluation Committee of the Ministry of Health.

Based on the facts that were proven, the court sentenced the defendant EP to 7 years in prison and the defendant MH to 4 years in prison and each defendant was ordered to pay court costs of US\$100.00.⁴

The court also decide to amend the restrictive measures imposed on the defendant EP to provide Proof of Identity and Residence (TIR) and to impose temporary detention, considering that the defendant EP did not cooperate during the trial (continued to live in Portugal).⁵ Through a formal decision the court also rejected the request of the defendant EP to use her right as a Portuguese citizen and to have the case handed over to the Portuguese courts pursuant to Law No. 15/2011 on international judicial cooperation.

Meanwhile, the court decided to acquit the two defendants from the crime of intentional mismanagement provided for in Article 274 of the Penal Code. The court also found that the two defendants did not cause the State to suffer a loss in accordance with Article 299.2 of the Penal Code. Therefore, the court acquitted the defendants from the charge of the public prosecutor to pay compensation totaling US\$ 280.000.

Previously the public prosecutor charged the two defendants for violating Article 174 of the Penal Code on intentional mismanagement and for violating Article 299 (1) and (2) on economic involvement in business.

For more information please contact:

⁴ Access on the JSMP website: http://jsmp.tl/wpcontent/uploads/2016/01/PrDesizaunbaKazuHanzamnoEMILIA_Tetum.pdf

⁵ Previously, the defendant EP through her legal representative submitted two appeals against decisions of the court. In one appeal against the decision of the court the request of the defendant EP to use her right as a Portuguese citizen was rejected. The other appeal concerned amending the restrictive measures on Proof of Identity and Residence (TIR) to require the defendant to periodically report to the authorities.

Luis de Oliveira Sampaio
Executive Director JSMP
Email : luis@jsmp.tl