



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Case Summary**  
**Oe-cusse District Court**  
**February 2016**

**A. Summary of the trial process at the Oecusse District Court**

**1. Total cases observed by JSMP: 14**

| Case Type  | Total     |
|--|-----------|
| Articles 145 & 35 of the Law Against Domestic Violence - Simple offences against physical integrity characterized as domestic violence | 4         |
| Article 154 - Mistreatment of a spouse   | 1         |
| Article 177 - Sexual abuse of a minor  | 1         |
| Articles 23 and 172 - Attempted rape   | 1         |
| Articles 297 & 303 - Misuse of authority and falsification of documents or technical report  | 1         |
| Articles 145 & 185 - Simple offences against physical integrity & unlawful entry   | 1         |
| Article 151 - Reciprocal offences against physical integrity   | 1         |
| Article 145 - Simple offences against physical integrity   | 1         |
| Article 157 – Threats  | 1         |
| Article 251 – Theft  | 1         |
| Article 316 – Smuggling  | 1         |
| <b>Total</b>   | <b>14</b> |

## 2. Total number of decisions observed by JSMP: 8

| Type of decision   | Total    |
|--|----------|
| Effective prison sentence                                    | 1        |
| Suspended sentences pursuant to Article 68 of the Penal Code | 3        |
| Fine pursuant to Article 67 of the Penal Code                | 1        |
| Admonishment pursuant to Article 82 of the Penal Code        | 1        |
| Settlement was validated                                     | 1        |
| Acquitted  | 1        |
| <b>Total</b>   | <b>8</b> |

## 3. Total cases adjourned based on JSMP monitoring: 2

| Reason for adjournment                              | Total    |
|---|----------|
| Defendant did not appear in court                   | 1        |
| The defendant and the victim were not present (ill) | 1        |
| <b>Total</b>  | <b>2</b> |

## 4. Total cases that are still ongoing - based on JSMP monitoring: 4

### B. Short summary and description of trials and decisions

#### 1. Crime of simple offences against physical integrity and unlawful entry

Case No. : 202/kcrime/2015/TDO  
Composition of judges : Single  
Judge : João Ribeiro  
Public Prosecutor : Mateus Nessi  
Public Defender : Calisto Tout  
Conclusion : Sentenced to 1 year in prison, suspended for 1 year and 6 months.

On 5 February 2016 the Oecusse District Court conducted a hearing to announce its' decision in a case of simple offences against physical integrity and unlawful entry onto another person's property involving the defendant Maria Loca and the victim Lucia Ena who was a neighbor of the defendant. This case allegedly occurred in Naimeco Village, Nitibe Sub-District, Oecusse District.

The court found that the defendant did in fact commit the crime as stated in the prosecutor's indictment and based on the testimony of the defendant and the victim. In addition, this was corroborated by a medical report about the violence committed by the defendant against the victim.

During the previous hearing, the public prosecutor alleged that on 15 September 2015, at approximately 4pm, the defendant went to the home of the victim. The defendant told the victim's daughter to go and call the victim from the plantation because the defendant was going to burn down the home of the victim. When the victim arrived from the plantation, the defendant approached and choked her, bit her finger and caused an injury to the victim's finger. The defendant then twice punched the victim on her cheek, pulled the victim's hair and right cheek. The victim ran inside the house and the defendant followed her inside the room and pushed her; however the defendant did not hit the victim. This case allegedly occurred because the victim and the defendant's daughter had an argument.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity and Article 185 of the Penal Code on unlawful entry. A hospital report and photos from PNTL were also presented in this case.

During the trial, the defendant denied punching the victim however after the court confronted the defendant with the medical report, and the defendant then testified and admitted the facts listed in the prosecutor's indictment.

In his final recommendations, pursuant to Article 145 and 185 of the Penal Code, the public prosecutor requested for the court to impose a penalty of 5 years in prison against the defendant because she admitted her actions, and the defendant had tried to lie to the court.

Meanwhile the public defender requested for the court to impose an appropriate penalty in accordance with the guilt of the defendant because the defendant admitted the facts and regretted her actions, and she has 8 children and until now the defendant has not repeated her actions against the victim or another person.

After evaluating the facts and the final recommendations of the public prosecutor and public defender, the court concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months.

## **2. Crime of simple offences against physical integrity characterized as domestic violence and making threats**

|                       |  |
|-----------------------|--|
| Case No.              | : 203/kcrime/2015/TDO                              |
| Composition of judges | : Single   |
| Judge                 | : João Ribeiro                                     |
| Public Prosecutor     | : Ricardo Godinho Leite                            |
| Public Defender       | : Calisto Tout                                     |
| Conclusion            | : Effective prison sentence of 1 year and 6 months |

On 10 February 2016 the Oecusse District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant CP who allegedly committed the offences against his wife. This case allegedly occurred in Oecusse District.

The court proved that the defendant struck the victim on her left side with a piece of wood, punched her once on her left eye and once on the head. The defendant also threatened that he would only be happy if he killed the victim.

The actions of the defendant made the victim feel afraid and she did not want to live together with the defendant.

The court also proved that the defendant had often struck the victim before this case occurred. The court proved these facts based on the testimony of the defendant, the victim and a medical report from PRADET and photos from the VPU-PNTL.

During a previous hearing the public prosecutor alleged that on 6 September 2015, at approximately 10am, the defendant struck the victim on her left side with a dry piece of wood and the victim fled to her parents' house for 4 days. These actions caused the victim to suffer swelling to her side. This case allegedly occurred because the victim did not want the defendant to tell their son who had just got home to go and fetch grass to feed the buffalo.

On 10 September 2015 the victim returned home, the defendant was sitting in front of the door and did not allow the victim to enter the house. After that the defendant punched the victim once above the eye and once in the head. The defendant threatened the victim by saying that "*one day I will kill you and only then I will be satisfied*". The victim felt afraid and has been living with her family until now.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence and Article 157 of the Penal Code on making threats. In this case a medical report from PRADET and photos from the VPU-PNTL were provided.

During the trial, the defendant admitted several of the facts and testified that the victim himself refused to enter the house. The defendant also denied that he did not threaten the victim. The victim corroborated the facts set out in the indictment of the public prosecutor.

The witness PO, who is the niece of the defendant, was summoned as a witness and decided not to provide testimony against the defendant because she is related to the defendant.

In his final recommendations the public prosecutor considered that all of the facts had been proven based on the confession of the defendant and testimony of the victim, so he requested for the court to impose a suspended prison sentence of 1 year 6 months.

The public defender requested for the court to impose an appropriate penalty in accordance with the wrongdoing of the defendant, because the defendant admitted several of the alleged facts, regretted his actions and after the incident the defendant has not committed any further crimes against the victim or anyone else.

After evaluating the facts and the final recommendations of the public prosecutor and public defender, the court concluded this matter and sentenced the defendant to 1 year and 6 months in prison.

### **3. Crime of reciprocal offences against physical integrity**

|                       |   |
|-----------------------|---|
| Case No.              | : 12/kcrime/2016/TDO  |
| Composition of judges | : Single  |
| Judge                 | : João Ribeiro  |
| Public Prosecutor     | : Ricardo Godinho Leite   |
| Public Defender       | : Sesaltina D. C. Freitas   |
| Type of decision      | : The defendant FdCM was ordered to pay a fine of US\$90.00 and the defendant JE was acquitted. |

On 10 February 2016 the Oecusse District Court read out its decision in a case of reciprocal offences against physical integrity involving FdCM and JE who are husband and wife. This case occurred in Oecusse District.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence. However after hearing testimony from the defendant and the victim, the court amended the charge to Article 151 of the Penal Code on reciprocal offences against physical integrity.

The court proved that the defendant was suspicious of her husband contacting another woman via Facebook. The defendant threw a stone at her husband and struck the left hand of her husband with a curtain rod. Her husband was unhappy with this and kicked the victim once in the back and pushed her to the ground.

During the trial the husband of the defendant testified that he did not kick his wife but only pushed her over so that she would not be able to strike him again. The defendant admitted all of the facts in the indictment.

The public prosecutor alleged that on 31 October 2015 at approximately 9am, the defendant twice threw a rock striking the victim on the left side of his stomach, and threw a rock at his hand and struck the victim with a piece of wood. The defendant then scratched the face of the victim, the left side of his neck and his back. The defendant also struck the right hand of the victim with a curtain rod. Therefore, the victim was unhappy and he kicked the defendant in the back and pushed her over and this caused the defendant to hit her head on the ground and suffer an injury. This case allegedly occurred because the defendant suspected her husband of contacting another woman via Facebook.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

In his final recommendations, based on the aforementioned amendment, the public prosecutor requested for the court to impose a penalty of 6 months in prison, suspended for 1 year against the defendant JE and for the defendant FdCM to be sentenced to 1 year in prison, suspended for 2 years, because the two defendants were guilty of committing the crimes of hurting each other.

The public defender requested for the court to acquit the defendant JE because the defendant had acted in legitimate self-defense and in relation to the defendant FdCM, he requested for the court to impose an appropriate penalty in accordance with his wrongdoing.

After evaluating the facts and the final recommendations of the public prosecutor and public defender, the court concluded this matter and ordered the defendant FdCM to pay a fine of US\$90, to be paid in daily instalments of US\$1 for 90 days. The court found the defendant guilty of committing the crime of making threats and simple offences against physical integrity and of hurting her husband JE who also hurt her.

The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine. In relation to the defendant JE, the court acquitted him because the defendant acted in legitimate self-defense.

#### **4. Crime of making threats**

|                       |                         |
|-----------------------|-------------------------|
| Case No.              | : 14/kcrime/2016/TDO    |
| Composition of judges | : Single                |
| Judge                 | : Eusébio Xavier Victor |
| Public Prosecutor     | : Mateus Nessi          |
| Public Defender       | : Afonso Gomes Fatima   |
| Type of decision      | : Acquitted             |

On 25 February 2016 the Oecusse District Court conducted a hearing to announce its decision in a case of threats involving the defendant Antonio Tefa and the victim Pedro Neno. This case allegedly occurred in Lifau Village, Pante-Makassar Sub-District, Oecusse District.

The court found that the defendant was not proven guilty of committing the crime of making threats against the victim, in accordance with the wording of the indictment, namely: ‘... *I will slash you until you are dead if I see you walking alone on the main road*’. Because the victim himself testified that he did not feel afraid and felt that he was free to carry out his work like normal.

In addition, the testimony of the victim and the witness Batista Sasi did not match. The victim testified that the defendant did not manage to hit him, however the witness Batista Sasi testified

that they fought and he separated the victim and the defendant. Therefore, the court did not find evidence about the beating carried out by the defendant against the victim.

On the other hand, the court found other new evidence, that before this crime occurred the victim and the witness had been surreptitiously measuring the land of the defendant.

The public prosecutor charged the defendant with violating Article 157 of the Penal Code on making threats.

During the trial the defendant denied all of the alleged facts against him and said that he did not threaten the victim. The victim also confirmed that the defendant did threaten him however after the incident the victim did not feel afraid and was free to move around and carry out his work like normal.

In his final recommendations the public prosecutor requested for the court to impose a penalty pursuant to Article 157 of the Penal Code because the defendant was found guilty of committing the crime of making threats against the victim during the trial, and the defendant denied all of the facts alleged against him.

On the other hand, the public defender requested for the court to acquit the defendant from the charges. However if the court decides otherwise, then the public defender requests for the court to provide justice for the defendant because the public defender believed that the defendant did not intend to make threats and if he did make threats the victim would not have moved around freely and carried out his work like normal.

After evaluating these facts and the final recommendations of the public prosecutor and public defender, the court concluded the matter and acquitted the defendant from the charges of the public prosecutor.

## **5. Crime of simple offences against physical integrity**

|                       |  |
|-----------------------|--|
| Case No.              | : 131/kcrime/2015/TDO  |
| Composition of judges | : Single   |
| Judge                 | : João Ribeiro   |
| Public Prosecutor     | : Mateus Nessi   |
| Public Defender       | : Calisto Tout   |
| Conclusion            | : The defendant Miguel da Cunha was issued with an admonishment and the defendant Domingos da C was acquitted. |

On 29 February 2016 the Oecusse District Court tried a case of simple offences against physical integrity involving the defendants Miguel da Cunha and Domingos da C Anuno against the victim Marcos Oqui who was the driver's assistant on a minibus. This case allegedly occurred in Cunha Village, Pante-Makassar Sub-District, Oecusse District.

The public prosecutor alleged that on 27 January 2015, at approximately 15:30, the defendant Miguel choked the victim from behind and the defendant Domingos held the victim's two hands tightly and the defendant Miguel punched the victim once above the eye and slapped the victim

once on his right cheek. This case allegedly occurred because of an argument between the two defendants and the victim about the minibus fare.

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

Before the trial the two defendants were detained in PNTL cells for 72 hours because the two defendants did not obey the summons of the court and did not provide a reason.

During the trial, the defendant Miguel admitted some of the facts and said he only punched the victim once above the eye. The defendant Domingos totally denied all of the facts listed in the indictment of the public prosecutor. The court did not hear testimony from the victim because he did not appear in court.

The witness Leonardus Manuel Soares, who was the driver of the minibus, testified that he did not see the aforementioned criminal act.

In his final recommendations the public prosecutor requested for the court to impose a penalty pursuant to Article 145 of the Penal Code against the two defendants, although the defendant Miguel da Cunha only admitted some of the facts and the defendant Domingos da C denied all of the facts.

The public defender requested for the court to impose a fair penalty against the defendant Miguel because he testified that he only hit the victim once and in relation to the defendant Domingos, the public defender requested for the court to acquit him because he did not commit the crime against the victim.

After evaluating the entire case, the court concluded the matter and imposed a suspended sentence against the defendant Miguel and acquitted the defendant Domingos from the aforementioned criminal charges.

## **6. Crime of simple offences against physical integrity, characterized as Domestic Violence.**

|                       |  |
|-----------------------|--|
| Case No.              | : 31/kcrime/2016/TDO                                       |
| Composition of judges | : Single   |
| Judge                 | : João Ribeiro   |
| Public Prosecutor     | : Ricardo Godinho Leite                                    |
| Public Defender       | : Afonso Gomes Fatima                                      |
| Conclusion            | : Sentenced to 6 months imprisonment, suspended for 1 year |

On 29 January 2016 the Oecusse District Court tried a case of simple offences against physical integrity characterized as domestic violence, involving the defendant JL who allegedly committed the offence against his wife. This case occurred in Oecusse District.

The public prosecutor alleged that on 28 November 2015 at approximately 12:00 midday, the defendant kicked the victim once in the forehead causing her to fall to the ground, and punched her once on her right ear and grabbed the hair of the victim and threw her to the ground. This



case allegedly occurred because the victim asked the defendant “why did you come”, when the defendant followed the victim to her parent’s house.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence. In this case a medical report from PRADET and photos from the VPU-PNTL were provided.

During the trial, the defendant admitted all of the facts and testified that he regretted his actions. In addition, the victim maintained the charges of the public prosecutor.

In his final recommendations the public prosecutor considered all of the facts to have been proven based on the confession of the defendant and the confirmation of the victim, therefore he requested for the court to impose a penalty of 6 months imprisonment, suspended for 1 year. The public defender considered the mitigating and aggravating circumstances against the defendant, and requested for the court to provide justice.

Based on all of the facts deduced during the trial, the court decided this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

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

|                       |   |
|-----------------------|---|
| Case No.              | : 32/kcrime/2016/TDO  |
| Composition of judges | : Single  |
| Judge                 | : João Ribeiro  |
| Public Prosecutor     | : Mateus Nessi  |
| Public Defender       | : Afonso Gomes Fatima   |
| Conclusion            | : Sentenced to 1 year in prison, suspended for 1 year and 6 months. |

On 29 February 2016 the Oecusse District Court tried a case of simple offences against physical integrity characterized as domestic violence, involving the defendant AdA who allegedly committed the offence against his wife. This case occurred in Oecusse District.

The public prosecutor alleged that on 1 December 2015, at approximately 2pm, the defendant punched the victim once on the back of her neck. The defendant then took a crowbar to strike the victim but did manage to do so because the neighbor SM grabbed the crowbar. Nevertheless, the defendant then struck the victim once on the right cheek, choked and threw her on the ground. After the victim stood up, the defendant kicked her once on her right ear and yanked the victim’s hair and pushed her to the ground. These acts caused the victim to suffer pain.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Articles 2, 3 and 35 of the Law Against Domestic Violence. In this case a medical report from PRADET and photos from the VPU-PNTL were provided.

During the trial the defendant admitted all of the facts and regretted his actions and the victim maintained the facts listed in the prosecutor's indictment.

In his final recommendations the public prosecutor considered the facts produced during the trial, such as the testimony of the defendant and confirmation from the victim regarding the existing facts, and requested for the court to impose a penalty pursuant to Article 145 of the Penal Code as well as Articles 2, 3 and 35 (b) from the Law Against Domestic Violence.

The public defender considered the mitigating and aggravating circumstances and requested for the court to provide justice.

After hearing the final recommendations of the parties, the court immediately concluded this matter and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months. The court also ordered the defendant to pay court costs of US\$ 20.00.

## **8. Crime of theft**

|                       |                            |
|-----------------------|----------------------------|
| Case No.              | : 33/kcrime/2016/TDO       |
| Composition of judges | : Single                   |
| Judge                 | : João Ribeiro             |
| Public Prosecutor     | : Ricardo Godinho Leite    |
| Public Defender       | : Afonso Gomes Fatima      |
| Conclusion            | : Settlement was validated |

On 29 February 2016 the Oecusse District Court tried a case of theft involving the defendants Paulo Fanu, Francisco J. Hornai, Domingos Banu, Marcelino Oqui, Jose Sani, Pedro Pala, Domingos Tani and Mateus T. Elu who allegedly committed the offence against the victim Krisanto Kolo. This case allegedly occurred in Lifau Village, Pante-Makassar Sub-District, Oecusse District.

The public prosecutor alleged that on 23 June 2015, at approximately 3pm, the defendants chased and killed the victim's buffalo, and then the defendants took it away in a truck and unloaded it in a rice field and they then cut up and divided the buffalo. The defendants killed the buffalo because they suspected that the victim's buffalo often went into their rice field and ate and damaged their rice seedlings.

The public prosecutor charged the defendants for violating Article 251 of the Penal Code on theft.

During the hearing the defendants admitted their guilt and apologized to the victim. The defendants agreed to pay compensation for the loss of the victim and the defendants agreed to pay back US\$500.00. The victim agreed with this amount and forgave the defendants and therefore requested for the court to withdraw the case.

The court decided not to hear witness testimony because the victim and the defendants agreed to reconcile and wanted to withdraw the case.

In his final recommendations, the public prosecutor and public defender agreed with the peaceful settlement between the two parties and requested for the court to validate this settlement.

Based on the agreement between the two parties and the victim's request to withdraw the case, the court then validated this settlement.

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