



**Case Summary**  
**The Dili District Court**  
**July 2017**

**Affirmation:** The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons.  
 JSMP maintains that there is no justification for violence against women.

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

**1. Total cases monitored by JSMP: 42**

Article	Type of Case	Number of cases
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 and types of offences categorised as domestic violence	13
Article 145 of the PC	Simple offences against physical integrity	5
Article 172 of the PC	Rape	3
Article 177 of the PC	Sexual abuse of a minor	3
Article 142 of the PC	Infanticide	2
Article 154 of the Penal Code and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV)	Mistreatment of a spouse	2
Articles 145 and 157 of the Penal Code	Simple offences against physical integrity and threats	1
Article 243 of the PC	Obstructing public authority	1
Article 174 of the PC	Sexual exploitation of a third party	1
Article 267 of the PC	Aggravated fraud	1
Article 151 of the PC	Reciprocal offences against physical integrity	1

Article 143 of the PC	Abandonment or exposure	1
Articles 258 & 145 (PC)	Property damage and simple offences against physical integrity	1
Article 294 of the PC	Active corruption	1
Article 139 of the PC	Aggravated homicide	1
Article 295 of the PC	Embezzlement	1
Articles 295 & 297 (PC)	Embezzlement and abuse of power	1
Article 295 of the PC, Article 303 of the PC, Article 313 of the PC	Embezzlement, forgery of document or technical report and money laundering	1
Articles 163, 164, and 303 of the Penal Code	Human trafficking, aggravation and forgery of documents or technical report	1
Articles 267 & 303 (PC)	Aggravated fraud and forgery of documents or technical report	1
<b>Total</b>		<b>42</b>

## 2. Total number of decisions monitored by JSMP: 20

Type of Penalty	Number of cases
Suspension of execution of a prison sentence (Article 68 of the PC)	7
Prison sentence (Article 66 of the PC)	4
Acquitted	3
Withdrawal of complaint	3
Suspension of execution of a prison sentence – Article 68 of the PC and Rules of conduct - Article 70 (g) of the PC	2
Suspension of execution of a prison sentence (Article 68 of the PC) and civil compensation	1
<b>Total</b>	<b>20</b>

## 3. Total ongoing cases based on JSMP monitoring: 22

### Descriptive summary of the decisions handed down in cases that were monitored by JSMP

#### 1. Crime of mistreatment of a spouse

Case Number : 0402/15.PDDIL  
Composition of the Court : Panel  
Judges : Jacinta Correia da Costa, Ana Paula Fonseca, Eusebio Vitor  
Prosecutor : Ivonia Maria Guterres  
Public Defender : Fernando de Carvalho

Type of Penalty : 3 years in prison, suspended for 5 years, and compensation

On 4 July 2017 the Dili District Court announced its decision in a case of mistreatment of a spouse characterised as domestic violence involving the defendant RX (member of F-FDTL) who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 13 September 2015 the defendant dragged the victim inside, kicked her once on her hip and this caused the victim to fall to the ground. As a result of this assault the victim suffered severe pain to her hip, and she required treatment in hospital.

Previously in 2014, 2012 and 2010 the defendant repeatedly committed physical violence against the victim by punching her in the body, pushing her onto the bed, slapping the victim's cheeks and kicking the victim in the chest. The defendant threw the victim on the ground and stood on her and tied a piece of cloth around her throat and only let the victim go when she got on her knees and apologised.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the crime of mistreatment of a spouse that carries a prison sentence of 2 - 6 years in prison as well as Articles 2, 3, 35 and 36(a) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant only confessed the allegations relating to incidents that occurred in 2015, because the victim hit their eldest child which caused an injury to the head. The defendant rejected the allegations about the incidents in 2014, 2012 and 2010. The victim confirmed and maintained the facts in the indictment and stated that the defendant did not give her enough money. The victim sometimes had to work for the defendant's mother by massaging her, washing clothes and boiling water for her mother-in-law so she could get money.

The court also cross examined the defendant and victim regarding the alleged incidents that occurred in 2014, 2012 and 2010. During the cross examination the defendant maintained that he did not commit violence against the victim. However, the victim maintained the facts in the indictment and described her suffering as a result of the defendant's violence. The defendant and the victim have 3 children but have been living separately since March 2017.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of all of the facts outlined in the indictment based on the testimony of the victim. For this reason he requested for the court to impose a apply prison sentence of 3 years, suspended for 5 years against the defendant.

The public defender requested for the court to amend the charge of mistreatment of a spouse to the charge of simple offences against physical integrity characterized as domestic violence, because the only facts that were proven related to the incident on 13 September 2015.

### **Decision**

After assessing the facts that were proven during the trial the court found the defendant guilty of repeatedly beating the victim. These facts were proven based on the victim's testimony, the defendant's confirmation of some of the facts as well as the cross examination of the defendant and the victim. The court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 5 years and ordered him to pay civil compensation of US \$800 to the victim for her suffering, as well as court costs of US\$50.

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

Case No. : 0039/17.DIDIL  
Composition of the Court : Single Judge  
Judge : Ivan Patriçinio Antonio Goncalves  
Prosecutor : Benvinda do Rosario  
Public Defender : Agostinha de Oliveira  
Type of Penalty : Withdrawal of complaint

On 10 June 2017 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant PCdA who allegedly committed the offence against the victim PRdC in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 16 March 2017 at 9am the defendant (boyfriend of the victim) picked up the victim on a motorcycle to buy candles in Audian, Dili. On the way the defendant and the victim had an argument and the defendant elbowed the victim in the shoulders very hard and the victim was shocked and fell off the motorcycle onto the road.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the defendant apologised to the victim (his girlfriend) and promised not to reoffend against the victim in the future. Therefore, the victim requested for the court to withdraw the complaint against the defendant.

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

## **3. Crime of abandonment or exposure**

Case No. : 0055/14. ALSIC  
Composition of the Court : Panel  
Judges : Maria Modesta, Edite Palmira dos Reis, Ivan Patricinio  
Prosecutor : Reinato Bere Nahak  
Public Defender : Rui Guterres  
Type of Penalty : Prison sentence

On 12 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of infanticide involving the defendant FM who allegedly committed the offence against her baby in Aileu District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 December 2014 at approximately 10pm the defendant was pregnant and went into the plantation and felt labour pains. When she got there the defendant tried to deliver her baby. After the baby was born the defendant left the baby in the plantation. The defendant returned home and the defendant only came out of her house at 8am when the police knocked on the door of her house because they had found the baby by the side of the defendant's house. The witness EM saw the baby's body when she was going to mass in Maubisse. The witness saw the baby near her plantation with one arm missing and a large hole in the throat. Also the baby's body was covered in dirt and the backside was very dirty.

The public prosecutor alleged that the defendant violated Article 142 of the Penal Code on infanticide that carries a maximum penalty of 1 -3 years in prison.

### **Presentation of evidence**

During the trial the defendant confirmed that she gave birth in the plantation and cut the umbilical cord with scissors that she had brought from home. However, after giving birth she felt very dizzy because she lost a lot of blood and so she went home and later on she was going to get the baby. But when she got home she bled a lot and the defendant lost consciousness and woke up when the police knocked on her door in the morning. At that time the defendant found out that a dog had eaten part of her baby's body. The defendant also stated that nobody else, including her family, knew that she was pregnant, because she did not want other people to know, because a married man had got her pregnant and he didn't want to take responsibility.

The witness EM testified that she didn't really know the defendant FM because they have never had regular contact and he didn't know that the defendant was pregnant, because the defendant often stayed indoors. The witness found the baby's body when she was going to mass and saw the baby's body lying on the ground at a distance of 25 metres from the side of the house, which was close to the defendant's plantation. After she saw the body of the baby the witness immediately told her husband to ring the police.

The witness CM from the PNTL testified that he received a phone call from the Aileu Police Station that some community members had found the body of a baby in a plantation. When they arrived there the witness and his colleagues saw blood on a rock which was 10 metres from the defendant's house. Then the witness and his colleagues went down to the river and at approximately 25 metres they saw the baby's body.

The witness testified that one of the baby's arms was missing and there was a large hole in the throat, as if it had been eaten by an animal. Also, the baby's behind was very dirty, and therefore it was suspected that the defendant choked the baby to death before abandoning the baby. However, the police did not manage to conduct an autopsy because the family of the deceased did not give permission.

The witness AdA, the older brother of the defendant, testified that the defendant lived with him, but he and his wife did not know that the defendant was pregnant. On 24 December 2014 the witness and his wife were at home but they did not hear anything. At 5am the witness and his wife went to mass and at approximately 9am during mass the police rang to inform the witness that they had found a baby beside their house.

### **Final recommendations**

The public prosecutor stated that the examination of evidence had proved that the defendant's actions had fulfilled the crime of abandonment or exposure. Therefore he requested for the court to amend the charge from the crime of infanticide to the crime of abandonment or exposure and for the defendant to be given a prison sentence of 7 years.

The public defender requested for the court to carefully consider the mitigating circumstances surrounding this crime, namely that the defendant expressed regret and the defendant had no intention of killing her baby. Therefore he requested for the court to impose a lenient penalty against the defendant.

### **Decision**

The court found that all of the allegations in the indictment had been proven, however the court found that the elements of this crime fulfilled the provisions of Article 143.1 (b) and 143.2 (b) of the Penal Code on the crime of abandonment or exposure. Therefore the court decided to amend the charge from Article 142 on infanticide to Article 143 on abandonment or exposure. The court concluded this matter and sentenced the defendant to 7 years in prison.

### **4. Simple offences against physical integrity characterized as domestic violence**

Case No. : 0248/15.DIDIL  
Composition of the Court : Single Judge  
Judge : Antonio Helder Viana do Carmo  
Prosecutor : Osorio de Deus  
Public Defender : Juvinal Yanes Freitas  
Type of Penalty : 6 months in prison, suspended for 2 years

On 12 June 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 10 October 2015, at 8.30am, the defendant punched the victim in the stomach and the victim fell to the ground and suffered pain to her stomach.

In the afternoon when the defendant returned from Comoro the defendant started swearing and insulting the victim by calling her a dog, saying that she was uneducated, a whore and she didn't know how to cook. Then the defendant grabbed a fan and struck the victim in the head and the victim suffered pain and swelling to her head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant and the victim did not attend and the court held the trial in absentia. The Court proceeded with the trial and the defendant was represented by the public defender pursuant to Article 257(b) of the Criminal Procedure Code (CPC) on impossibility of notifying or arresting a defendant and the victim was represented by the Public Prosecutor pursuant to Article 261 of the Criminal Procedure Code on absence of the victim, witnesses, experts or technical consultants.

### **Final recommendations**

The public prosecutor stated that the defendant had been proven guilty of all of the facts outlined in the indictment based on the testimony of the defendant and the victim during the investigative process before the Public Prosecution Service. Other evidence included the medical report from Pradet that the victim stayed for four days at Pradet to receive treatment. So, although the defendant and the victim did not attend the court the public prosecutor requested for the Court to convict the defendant for the alleged crime. The public prosecutor also requested for the court to consider the statements of the defendant, victim or witnesses given before the judicial authorities pursuant to Article 266.2 (b) of the CPC.

The public defender requested for the court to acquit the defendant pursuant to Article 266.1 of the CPC that states that the court's opinion may only be built on proof that has been either produced or examined at the hearing.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 2 years.

## **5. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 077/16.PCCIC
Composition of the Court	: Single Judge
Judge	: Antonio Helder Viana do Carmo
Prosecutor	: Osorio de Deus
Public Defender	: João Henrique Carvalho
Type of Penalty	: 3 months in prison, suspended for 1 year with rules of conduct

On 12 July 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JAB who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 11 November 2016 at 12pm the victim and her son went to the home of the victim's older brother. The defendant was drunk and he followed the victim and punched the victim once on the right cheek and the victim fell to the ground and the victim hit her head on the wall. The defendant also kicked the victim twice on her back.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on 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 Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that he was drunk and he kicked the victim once on the back. The defendant denied the allegation that he kicked the victim twice on the back, and punched the victim once on the cheek and the victim fell to the ground. The defendant also stated that after this incident the defendant and the victim immediately reconciled and he regretted his actions. The victim confirmed and maintained the facts in the indictment and stated that the defendant punched the victim in front of the children.

### **Final recommendations**

The public prosecutor stated the defendant was guilty of committing the crimes alleged in the indictment, even though the defendant denied some facts, but the victim confirmed the facts set out in the indictment. Therefore, to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 1 year and 6 months.

The public defender requested for the court to carefully consider the mitigating circumstances surrounding this crime such as the defendant confessed, regretted his actions and they have reconciled. Therefore he requested for the court to order the defendant to pay a fine.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year and the court also ordered the defendant to periodically report to the court once a month for 6 months.

## **6. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 0109/17.PDDIL
Composition of the Court	: Single Judge
Judge	: Antonio Helder Viana do Carmo
Prosecutor	: Nelson de Carvalho
Public Defender	: Juvinal Yanes Freitas
Type of Penalty	: 3 months in prison, suspended for 1 year with rules of conduct



On 13 July 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IIS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 16 March 2017 the victim went to the defendant's workplace and asked the defendant for his baptism certificate to organise their son's baptism certificate. When the defendant saw the victim he immediately slapped the victim once on her right cheek.

On 29 April 2016 at 8pm the victim told the defendant that she was 1 months pregnant and the defendant asked the victim to have an abortion. The defendant and the victim argued and the defendant punched the victim once above the right eye.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on 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 Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant made a statement about the facts that occurred on 16 March 2017 the defendant only slapped the victim once on the right cheek. The defendant denied the allegations about the incident on 29 April 2016. Even so, the defendant also stated that he regretted his actions and has reconciled with victim. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor maintained the charges, even though the defendant denied some of the facts in the indictment, but the victim confirmed the facts in the indictment. Therefore, to deter the defendant from committing any further crimes against the victim, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year.

The public defender requested for the court to carefully consider the mitigating circumstances surrounding this crime such as the defendant confessed, regretted his actions and they have reconciled. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

After assessing the facts produced during trial the court found that the defendant slapped the victim once on the right cheek. In relation to the allegation that the defendant told the victim to have an abortion and that he punched the victim above the eye, the court found that these facts had not been proven.

Based on the aforementioned facts, the court concluded this matter and sentenced the defendant to 3 months in prison, suspended for 1 year, and ordered him to pay court costs of US\$20. The court also applied rules of conduct against the defendant requiring him to periodically report the court once a month for six months.

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

Case No. : 0048/16.ALSIC  
Composition of the Court : Single Judge  
Judge : Edite Palmira dos Reis  
Prosecutor : Osorio de Deus  
Public Defender : Manuel Lito Exposto  
Type of Penalty : Withdrawal of complaint

On 13 July 2017 the Dili District Court announced its decision in a case of reciprocal offences against physical integrity involving the defendant JFDC who allegedly committed the offence against his wife in Aileu District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 30 December 2016 at 2am the defendant returned home heavily drunk and the victim asked the defendant where he had been drinking and then the victim slapped the defendant 8 times on his left ear which resulted in swelling and a little bit of blood. In addition the victim struck the defendant on the head many times with her hand and told the defendant *“If you don't listen to what I say, it would be better for me to go and talk to my brothers and they can deal with you”*. After the victim said this the defendant choked the victim with great force, punched the victim once on the back, and punched the victim once on the back of the head and when the victim ran out of the home, the defendant kicked the victim once on the back. The victim managed to run away and make a complaint at the Aileu Police Station.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on 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 Law Against Domestic Violence.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the victim wanted to resolve the matter amicably and withdraw her complaint because they have reconciled and are now living together again as husband and wife. The defendant expressed regret and promised not to repeat such acts in the future.

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

### **Decision**

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the court decided to validate the settlement.

## **8. Case of simple offences against physical integrity characterized as domestic violence**

Case No. : 0386/16.PDDIL  
Composition of the Court : Single Judge  
Judge : Maria Solana  
Prosecutor : Osorio de Deus  
Public Defender : Humberto Alves  
Type of Penalty : Punishment of 1 year in prison, suspended for 2 years

On 18 July 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AMdSJ who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

On 3 December 2016 at 7pm the defendant threw his telephone at the victim and struck the victim in the chest and kicked the victim once on the left thigh. The victim stood up to walk away but the defendant kicked the victim twice on the hip. The victim felt pain and cried, but the defendant twice punched the victim on the back and punched the victim once on her right arm. This assault caused the victim to feel pain to her thigh, chest, hip, arm, back and the victim needed to receive treatment in hospital.

### **Presentation of evidence**

During the trial the defendant denied all of the facts in the indictment and the defendant stated that actually he was threatened by the victim's former husband and this upset the defendant. The victim confirmed and maintained the facts set out in the indictment. The victim further declared that while they were living together the defendant always assaulted the victim and always made baseless accusations that the victim had an affair with her former husband. Now the victim and her son are not living at home and are living with her family.

### **Final recommendations**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Therefore, the public prosecutor requested for the court to impose a prison sentence of 1 year and 6 months, suspended for 3 years, against the defendant. The public prosecutor requested for the court to impose a fair penalty on the defendant.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 2 years.

## **9. Crime of sexual abuse against a minor**

Case No. : 0050/15.LIBZT  
Composition of the Court : Panel  
Judges : Jose Maria, Francisca Cabral and Maria Solana  
Prosecutor : Benvinda do Rosario  
Public Defender : Agostinha de Oliveira  
Type of Penalty : Prison sentence

On 19 July 2017 the Dili District Court conducted a hearing to try a case of sexual abuse of a minor involving the defendant MdC who allegedly committed the offence against the victim AdS, in Liquica District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 22 May 2015 the defendant went to the victim's home to meet the victim's father and the defendant was sitting on the veranda, and the victim's father went inside and told the victim to get some cigarettes and give them to the defendant. When the victim gave the cigarettes to the defendant, suddenly the defendant grabbed the victim and groped her chest and private parts. However after the victim's older sister JG came outside and saw the defendant in the act and yelled out loudly and the defendant immediately let the victim go.

The public prosecutor alleged that the defendant violated Article 177 of the Penal Code on sexual abuse of a minor that carries a maximum penalty of 5-15 years in prison.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment. The defendant also stated that during the incident the defendant was heavily drunk, so the defendant did not know what he was doing and only realised when he was brought before the police. The victim confirmed and maintained the facts in the indictment and stated that after the incident the victim felt afraid of seeing the defendant and felt embarrassed in front of her friends.

The witness JG, the victim's older sister, testified that she did not know that the defendant came to their house. At that time the witness was inside and came outside to call the victim to go and buy some things from the kiosk. When she came outside the witness saw the defendant hugging the victim and at the same time groping the victim's chest and private parts. So the witness yelled at the defendant and then the defendant released the victim.

### **Decision<sup>1</sup>**

After evaluating the facts that were proven during the trial, the court found the defendant guilty of committing the sexual abuse of a minor against the victim based on the defendant's confession, the victim's statement and the testimony of the witness. Even though the defendant tried to justify his behaviour because he was drunk when he committed this act, the court gave no consideration to this statement. The court gave more weight to the testimony of the defendant who said that he was drunk but on the aforementioned date, however he was able to walk a long way from the market to the victim's house and he greeted people that he knew.

After considering and assessing the facts that were proven, the court concluded the matter and convicted the defendant with a prison sentence of 6 years.

## **10. Crime of Rape**

Case No. : 0224/15.DIDIL  
Composition of the Court : Panel  
Judges : Francisca Cabral, Jose Maria, Maria Modesta

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<sup>1</sup> The trial of this case was closed to the public and therefore JSMP could not have access to the examination of evidence and final recommendations.

Prosecutor : Jose Elu  
Public Defender : Sebastião Amado de Almeida  
Type of Penalty : Acquitted

On 20 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of rape involving the defendants AN and MdJR who allegedly committed the offence against the victim JdRF, in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 1 July 2015, at 3pm the defendant MdJR rang on the phone to invite the victim to have some meatballs at the Bambola restaurant in Bidau. After eating, the defendant rang her husband (AN) to ask him to come to the Bambola Restaurant. Several minutes later the defendant came with a car to pick up the defendant MdJR and the victim to go driving around Dili. On the way the defendant AN stopped the car to buy beer and gave it to the defendant and the victim to drink in the car. Then the two defendants took the victim to the My Flower Bar and went into a room inside the bar. Once inside the room, and in the presence of the defendant MdJR, the defendant AN told the victim to remove her clothes and he was going to have sexual intercourse with the defendant. However the victim did not want to so the defendant AN told his wife the defendant MdJR, to go out of the room and the defendant AN was alone with the victim in the room.

When the defendant AN was alone the victim still refused to remove her clothes so the defendant started using force to yank off the victim's clothing leaving the victim in her underwear. Then the defendant told the victim to go to the bathroom to remove her underwear, but because the victim did not want to, the defendant told the victim to come back into the room and the defendant took off the victim's clothes. The defendant again told the victim that he wanted to have sexual intercourse with her. But because victim still did not want to the defendant rang the defendant MdJR, who was in the bar and asked her to enter the room to convince the victim.

The defendant MdJR came into the room to talk to the victim, but the victim did not want to and suddenly the defendant MdJR grabbed the victim and kissed the victim once on the cheek and groped the victim once on the chest.

The defendant AN told the defendant MdJR to help use force so he could have sexual intercourse with the victim. The defendant AN put three fingers into the victim's private parts. But, when the defendant was about to have sexual intercourse the victim kicked the defendant AN once in the thigh and he fell to the ground and the victim ran away.

The public prosecutor alleged that the defendant AN and his wife the defendant MdJR violated Article 172 of the Penal Code on rape that carries a maximum penalty of 5-15 years in prison.

## **Decision<sup>2</sup>**

After evaluating the facts produced during the trial, the court found that none of the facts in the indictment were proven based on the testimony of the two defendants and Timor Telecom (TT) recordings of conversations between the male defendant and the victim on the date of the incident, including the victim's own testimony.

The court found that the male defendant and the victim had a romantic relationship and when the victim's family found out they demanded for the male defendant to provide compensation to the victim totalling US\$12,000. However, because the two defendants did not want to, the victim and her family made a complaint to the police.

The court also noted that in addition to the lack of witnesses and the denials of the two defendants, the recorded conversations between the victim and the male defendant from Timor Telecom (TT) did not prove that the defendant had forced the victim. From these conversations the court found that the victim knew that the defendant had a wife, but the victim maintained her relationship with the male defendant. The victim and the female defendant also regularly contacted each other and there was no proof that the female defendant raped the victim.

Based on those facts that were proven and those that were not, the court did not find any evidence of alleged crime committed by the two defendants, and therefore the court acquitted the two defendants from the charges.

## **11. Crime of simple offences against physical integrity and threats**

Case No.	: 0225/16.PDDIL
Composition of the Court	: Single
Judge	: Maria Modesta
Public Prosecutor	: Hipolito Santa
Public Defender	: Manuel Sarmento
Type of Penalty	: 5 months in prison, suspended for 1 year

On 25 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendants Antonio da Costa Martins and Dominggos da Costa Martins who allegedly committed the offence against the victims Nicolau Freitas Ribeiro and Albino Fernandes Ribeiro in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on March 2016 the defendant Antonio da Costa Martins, who was a member of the Timor-Leste National Police (PNTL), and the victim's neighbour went with the son of the defendant Dominggos da Costa Martins to the home of the victim Nicolau Freitas Ribeiro and yelled out to the victim Nicolau Freitas Ribeiro to come outside. However, because the victim Nicolau Freitas Ribeiro did not come outside the defendant Antonio da Costa Martins went inside the victim's house and dragged the victim Nicolau Freitas Ribeiro outside and choked him and threatened him with a pistol and said he would kill him.

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<sup>2</sup> The trial of this case was also closed to the public, therefore JSMP could not access the examination of evidence and final recommendations.

The victim Albino Fernandes Ribeiro, who is the cousin of the victim Nicolau Freitas Ribeiro, tried to separate them but the defendant Dominggos da Costa Martins punched the victim Albino Fernandes Ribeiro twice in the mouth which caused an injury and bleeding. The incident occurred because the defendant Antonio da Costa Martins suspected that the victim Nicolau Freitas Ribeiro burned some rubbish near the defendant's garden which killed the defendant's plants.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 157 of the Penal Code on threats that carries a maximum penalty of two years or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim. However, during the attempted conciliation the victim stated that he did not want to withdraw his complaint against the defendants.

During the trial the defendant Antonio da Costa Martins said that he grabbed the victim Nicolau Freitas Ribeiro by his shirt because he was angry that the victim burned some rubbish near the defendant's garden which killed the defendant's plants. However, the defendant denied that he took a gun and threatened to shoot the victim Nicolau Freitas Ribeiro.

The defendant Dominggos da Costa Martins denied that he hit the victim Albino Fernandes Ribeiro. The defendant Dominggos da Costa Martins stated that he went with the defendant Antonio da Costa Martins, but he just stood outside the house. Therefore, he did not know what happened between the defendant Antonio da Costa Martins and the victims. The two victims maintained the facts set out in the indictment of the public prosecutor.

The witness Rosa da Silva, who is the mother of the victim Nicolau Freitas Ribeiro, testified that when the incident occurred the two defendants came to their house and the defendant Antonio da Costa Martins yelled out to the victim Nicolau Freitas Ribeiro. The witness was sitting on the veranda and stood up to ask the defendant why the defendant had come to the house and why was he angry. But, the defendant did not respond and went into the house and dragged the victim Nicolau Freitas Ribeiro outside. Suddenly, the defendant Antonio da Costa Martins grabbed a pistol and said that he would shoot the victim dead. Therefore the witness Rosa da Silva yelled out many times to tell him to stop and the defendant Nicolau Freitas Ribeiro released the victim.

The witness testified that he had no knowledge about the violence committed by the defendant Dominggos da Costa Martins against the victim Albino Fernandes Ribeiro. However, she stated that she saw that the victim Domingos da Costa Martins had an injury to his mouth.

### **Final recommendations**

The public prosecutor stated that the two defendants were guilty of committing the crime against the two victims based on the facts set out in the indictment. For this reason he requested for the court to impose a prison sentence of 2 year and 6 months, suspended for 1 year.

The public defender requested for the court to acquit the defendant Dominggos da Costa Martins and ordered the defendant Antonio da Costa Martins to pay a fine.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the two defendants to 5 months in prison, suspended for 1 year.

## **12. Crime of Rape**

Case No.	: 0398/15. DICMR
Composition of the Court	: Panel
Judges	: Jumiati Maria Freitas, Albertina Neves, Antonio Helder Viana do Carmo
Prosecutor	: Nelson de Carvalho
Public Defender	: Agostinha de Oliveira
Type of Penalty	: Acquitted

On 27 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of rape involving the defendant DHL who allegedly committed the offence against the victim FMS, in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 23 June 2015 at 2am the victim went to the bathroom and not long after the defendant followed her into the bathroom and removed the victim's shirt, pants and underpants and then the defendant hugged the victim. The victim pushed the defendant's hand away, but the defendant continued to hold the victim tightly to kiss the victim on the mouth and grabbed the victim on the chest. The victim's older brother caught the defendant in the act and told the defendant and the victim to come out of the bathroom. Previously the defendant and the victim had sexual relations on three occasions, the first time was in 2015 and the victim can't remember the dates of the other two times. After having sexual relations the defendant always threatened to kill the victim if she told family members.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape that carries a maximum penalty of 5-15 years in prison.

### **Decision<sup>3</sup>**

After evaluating the facts that were proven during the trial, the court found that the defendant and the victim were in a romantic relationship and they had sexual intercourse because they both wanted to, not because of threats. These facts were based on the testimony of the defendant and

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<sup>3</sup> The trial of this case was closed to the public; therefore, JSMP did not have access to the examination of evidence and the final recommendations



the victim. The defendant and the victim are now living together as husband and wife and have a child. The court concluded the matter and acquitted the defendant from the charges.

### **13. Crime of obstructing public authority**

Case No. : 0589/16.DICMR  
Composition of the Court : Panel  
Judges : Maria Solana, Jose Maria, Francisca Cabral  
Prosecutor : Reinato Bere Nahak  
Public Defender : Agustinha Oliveira  
Type of Penalty : Acquitted

On 27 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of obstructing public authority involving the defendant ZF who allegedly committed the offence against the State, in Comoro Village, Dili District.

#### **Charges of the Prosecutor**

On 27 September 2016 at approximately 7pm, the Public Order Battalion (BOP) comprising the witnesses JSdRC, FdS, GPC, and the victims RSdJB and RSF were providing security at the Comoro Police Station. The defendant ZF was driving a motorcycle while he was drunk back and forth in front in the location where the witnesses were providing security.

The witness RSdJB stopped the defendant and said *“if you are drunk, go to sleep, don't look for trouble.”* After this the defendant started swearing and said that the witnesses (police officers) were traitors and militia.

Then the defendant took the motorcycle home and banged on a steel pole, and a group of unknown people came out and threw stones at the police post and the homes of some residents.

The police officers who were providing security started putting on their protective gear and fired teargas at the group that was being organised by the defendant. However the group of unknown people did not stop and said the police were militia and traitors. The witnesses rang police HQ to provide support and when the police support arrived the situation was placed under control and the defendant was arrested.

The public prosecutor accused the defendant of violating Article 243.1 of the Penal Code on obstructing public authority that carries a penalty of 2-6 years in prison.

#### **Presentation of evidence**

During the trial the defendant rejected all of the facts in the indictment. The defendant stated that he rode a motorcycle in front of the police station because he was waiting for a friend to come back. However, because the defendant's friend did not come, the defendant went home and slept. The defendant had no knowledge about the incident and suddenly the police arrested the defendant at his house.

The witness FS saw many people attack the police post, but the witness did not see the defendant. The witness RSdJB testified that before the incident the defendant came to the police post and rode his motorcycle at high speed and made a lot of noise and the witness spoke to the defendant and told him to go home.

### **Final recommendations**

The prosecutor maintained the charges because there was evidence that the defendant committed the crime against the State. For this reason the public prosecutor requested for the court to sentence the defendant to 3 years in prison.

The public defender stated that the defendant was not proven guilty of committing the crime alleged in the indictment, and therefore requested for the court to acquit the defendant.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded this matter and acquitted the defendant.

## **14. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 0051/15.LIMBR
Composition of the Court	: Single Judge
Judge	: Albertina Neves
Prosecutor	: Osorio de Deus
Public Defender	: Humberto Alves
Type of Penalty	: 1 year in prison, suspended for 2 years

On 27 July 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JNdS who allegedly committed the offence against his wife in Liquica District.

### **Charges of the Prosecutor**

The public prosecutor alleged that in 2015 the defendant took a machete and threatened the victim and the defendant took the machete and slashed a bucket and the wall. The defendant slapped the victim twice on her left and right cheeks. The defendant then kicked the victim many times on her body and when the victim fell down, the defendant stood on the victim's body.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on 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 Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and promised not to reoffend against the victim in the future. The defendant and the victim reached an amicable settlement in accordance with East Timorese custom which including giving US\$ 60 and 2 bottles of beer to the victim's family. Also, the

victim maintained and confirmed all of the facts in the indictment and said that they have reconciled.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime as alleged in the indictment and therefore he requested for the court sentence the defendant to 1 year and 6 months in prison, suspended for 2 years.

The defence stated that the defendant confessed all of the facts set out in the indictment, has reconciled with the victim and the matter has been resolved in accordance with East Timorese custom. Based on the mitigating circumstances surrounding this crime he requested for the court to impose a fair penalty on the defendant.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment and requested for the court to sentence the victim to 1 year in prison, suspended for two years.

## **15. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 0995/12.PDDIL
Composition of the Court	: Single
Judge	: Antonio do Carmo
Prosecutor	: Hipolito Santa
Public Defender	: Sergio Quintas
Type of Penalty	: 3 months in prison, suspended for 1 year

On 27 July 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MdC who allegedly committed the offence against his wife in Liquica District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 15 July 2012 the defendant and the victim argued because some men asked the defendant's sister if the victim was unmarried or married. The victim responded that she didn't know who these men were but then the defendant punched the victim four times in the head and slapped the victim twice on the left cheek.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on 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 Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant also stated that after the incident the defendant apologised to the victim and the victim's family. Also, the victim confirmed and maintained the facts in the indictment and stated that she has reconciled with the defendant.

### **Final recommendations**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. To deter such crimes in the future, the public prosecutor requested for the court to impose a suspended prison sentence against the defendant.

The public defender requested for the court to carefully consider the mitigating circumstances surrounding this crime such as the fact that the defendant was a first time offender, regretted his actions and collaborated with the authorities. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating the facts relating to this crime the court found the defendant guilty of committing the crime as alleged in the indictment and sentenced the victim to three months in prison, suspended for one year.

### **16. Crime of sexual abuse against a minor**

Case No.	: 0013/16.ERHAT
Composition of the Court	: Panel
Judges	: Ana Paula Fonseca, Jacinta Correia, Eusebio Vitor
Prosecutor	: Reinato Bere Nahak
Public Defender	: Marçal Mascarenhas
Type of Penalty	: Prison sentence

On 28 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of sexual abuse of a minor involving the defendant AM who allegedly committed the offence against the victim RdS aged 12 in Ermera District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 25 December 2015 the defendant, who was the neighbour of the victim, saw that the victim was alone at home, and he called out to the victim to come over to his house. When she arrived at the defendant's house the defendant took the victim into a bedroom and threatened that he would hit the victim if she screamed. Then the defendant threw the victim on the bed and removed her clothing and he started removing his own clothing and had sexual intercourse. When he finished having sexual intercourse the defendant again threatened the victim not to tell anyone. The victim went home and had a shower without taking off her clothes and did not tell her family even though she felt pain to her genitals. The victim stated that when she had sexual intercourse with the defendant, the victim felt pain in her genitals and could not walk properly.

On dates that the victim could not identify the defendant had sex with the victim on three other occasions when the victim was home alone. The victim decided to tell her family after she felt severe pain to her genitals. The case file included a medical report from Pradet that showed that the victim suffered from forced sexual intercourse which caused the victim to feel pain to her genitals.

The public prosecutor accused the defendant of violating Article 177.1 of the Penal Code on the sexual abuse of a minor and Article 35 of the Penal Code on joinder of crimes.

#### **Decision<sup>4</sup>**

After evaluating all of the facts the Court found the defendant guilty of committing the crime as alleged in the indictment, based on the confession of the defendant and confirmation of the victim. The court found that the defendant took advantage of the fact that the victim's parents were absent so he could have sexual intercourse with the victim. The court also found that the defendant had sexual relations with the victim on three occasions. The court concluded this matter and sentenced the defendant to 18 years in prison.

#### **17. Crime of property damage and simple offences against physical integrity**

Case No.	: 0252/16.PNSIC
Composition of the Court	: Panel
Judges	: Edite Palmira, Ivan P. Gonçalves, Maria Modesta
Prosecutor	: Jose Ellu
Defence	: Pedro Apariçio (Private Lawyer)
Type of Penalty	: Withdrawal of complaint

On 31 June 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant CYJF who allegedly committed the offence against the victim MJCA in Dili District.

#### **Charges of the Prosecutor**

The public prosecutor alleged that on 7 December 2016 the victim, who was the defendant's former father-in-law, from his former wife, went to the home of the defendant to collect the defendant's son to take him back to the victim's house.

The defendant chased after the children who were in the victim's car and threw one stone at the car window and then punched the victim once above the right eye. This act caused the victim to suffer pain above his right eye, and the car window was smashed. In addition, the victim's glasses valued at AUD\$1200 (one thousand two hundred Australian Dollars) were smashed when the defendant punched the victim above the eye.

The public prosecutor alleged that the defendant violated Article 259 of the Penal Code on aggravated property damage that carries a maximum penalty of 2-8 years in prison and Article 145 on simple offences against physical integrity that carries a maximum penalty of 3 years in prison or a fine.

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<sup>4</sup> The trial of this case was closed to the public; therefore, JSMP did not have access to the examination of evidence and the final recommendations.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim wanted to reach an amicable settlement with the defendant and requested for the court to withdraw her complaint against the defendant. Also, the defendant stated that he regretted his actions and would not repeat his actions in the future against the victim.

In relation to the crime of aggravated property damage, the defendant confessed all of the facts in the indictment. The defendant also stated that the victim's glasses got smashed when the defendant punched the victim above the eye. The defendant punched the victim because the victim's daughter was the former wife of the defendant, and he came to collect the children without considering that the defendant was their father. The defendant ran after him and tried to talk nicely to the victim but the victim turned away and closed the car window. Therefore the defendant punched the window of the car and when victim lowered the window, the victim punched the victim once above the eye.

The victim maintained the facts set out in the indictment of the public prosecutor. Even so, the victim requested for the court to forgive the defendant and withdraw his complaint against the defendant, because the victim has reconciled with the defendant.

### **Final recommendations**

The prosecution and defence accepted the amicable agreement between the two parties for the crime of simple offences against physical integrity and requested for the court to settle this process. For the crime of aggravated property damage, the public prosecutor requested for the court to impose a fine on the defendant and compensate the victim for his loss.

The public defender requested for the court to impose a fine and amend the charge from aggravated property damage to property damage. The public defender made this request on the grounds that the victim's glasses were not completely smashed but only the frame was damaged and the victim has been able to keep using them.

### **Decision**

Based on the request from the victim, the court decided to endorse the request to withdraw the complaint for the crime of simple offences against physical integrity. For the crime of aggravated property damage, the court found that the victim's glasses were not completely smashed and the value of the smashed window was less than US\$1,000. The court amended the charge of aggravated property damage to property damage and decided to endorse the request to withdraw the complaint for property damage because the victim said that he wanted to withdraw the complaint against the defendant in this case.

## **18. Crime of infanticide**

Case No. : 0077/16.LILIQ  
Composition of the Court : Panel  
Judges : Maria Solana, Jose Maria, & Francisca Cabral  
Prosecutor : Benvinda do Rosario  
Public Defender : João Henrique Carvalho  
Type of Penalty : 3 years in prison, suspended for 3 years

On 31 July 2017 the Dili District Court conducting a hearing to announce its decision in a case of infanticide involving the defendant DDSC who allegedly committed the offence against her baby in Liquica District.

### **Charges of the Prosecutor**

On 13 August 2016 at 12 midnight the defendant was heavily pregnant and felt like she needed to urinate, so she went to the toilet. When she got to the toilet the defendant tried to urinate and gave birth to a baby. The defendant gave birth to a baby boy and she threw the baby into a lake and took a large rock and placed it on top of the baby so it couldn't breathe and the baby died.

The following day at 7am the witness AS, who is the uncle of the defendant, went to the plantation to water some vegetables. When he arrived the witness saw that the lake was full of green weeds. When the witness removed the weeds he saw a baby in the lake. The witness took the baby to the police.

The public prosecutor alleged that the defendant violated Article 142 of the Penal Code on infanticide that carries a maximum penalty of 3-10 years in prison.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment and stated that she killed the baby because the man who got the defendant pregnant did not want to take responsibility and they have had no contact with each other.

### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts in the indictment and these facts were confirmed by the victim. Therefore he requested for the court to convict the defendant in accordance with the provisions of the crime provided for in the penal code. The public defender requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating the facts that were proven during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court concluded this matter and sentenced the defendant to 3 years in prison, suspended for three years.

## **19. Crime of Rape<sup>5</sup>**

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<sup>5</sup> More information about JSMP publications is available at: [http://jsmp.tl/wp-content/uploads/2017/01/PrKazuINSESTUtinan28\\_TETUM.pdf](http://jsmp.tl/wp-content/uploads/2017/01/PrKazuINSESTUtinan28_TETUM.pdf)

Case No. : 0848/10.PDDIL  
Composition of the Court : Panel  
Judges : Antonio Helder do Carmo Jumiati Freitas, Albertina Neves  
Prosecutor : Bartolomeu de Araujo  
Public Defender : Marçal Mascarenhas  
Type of Penalty : Prison sentence

On 31 July 2017 the Dili District Court conducted a hearing to announce its decision in a case of rape characterised as incest involving the defendant MG who allegedly committed the offence against his daughter in Liquica District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 18 June 2010 when the victim went to the toilet the defendant followed her and wanted to have sexual intercourse, but he wasn't able to because the victim's older brother VG pushed the door.

On 4 December 2009 the defendant used a machete to threaten the victim to have sexual intercourse with the victim. In 2005 when the defendant and the victim returned from a plantation the defendant used a machete to threaten the victim to have sexual intercourse with him. The defendant and the victim had sexual relations which caused the victim to fall pregnant and she gave birth to a baby girl.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on the crime of rape and Article 173(a) of the Penal Code on aggravation and Article 35 on joinder of crimes as well as Articles 2 and 35 (b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment and the defendant also stated that the defendant did not have sexual intercourse with the victim on three occasions, but on eight occasions. He did not manage to have sexual intercourse with the victim in the bathroom because the victim's older brother VG pushed on the door of the toilet. The victim maintained all of the facts set out in the indictment of the public prosecutor.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. The court concluded the matter and accumulated the multiple crimes, namely that the defendant committed rape on 7 occasions and attempted rape on 1 occasion and the court imposed a single penalty of 28 years in prison.

## **20. Crime of mistreatment of a spouse**

Case No. : 0096/16.LILIQ  
Composition of the Court : Panel  
Judges : Maria Solana, Jose Maria, Fransisca Cabral Marques  
Prosecutor : Osorio de Deus  
Public Defender : Manuel Lito Exposto



Type of Penalty : 2 years in prison, suspended for 2 years

On 31 July 2017 the Dili District Court announced its decision in a case of mistreatment of a spouse involving the defendant JBdS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that in 2016 the defendant visited the victim at the home of the defendant's parents, because the defendant was living separately at the home of his older sister. When the victim saw the defendant the victim insulted the defendant and smashed the mirror and lamp on the defendant's motorcycle so the defendant slapped the victim twice on the right and left cheek.

Previously in 2015 the defendant also punched the victim many times on the back which caused the victim to fall to the ground. In October 2011 the victim asked the defendant for money because their child was sick. The defendant did not give money to the victim but punched and kicked the victim many times in the back.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years in prison as well as Articles 2, 3 and 35 (a) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that the allegations about the incident that occurred in 2016 were correct, because the victim always suspected that the defendant had another woman and in relation to the incident in 2015 the defendant acknowledged that the defendant punched the victim only once on the victim's back, not many times. The defendant denied that he kicked the victim many times in the back and also denied the other allegations about the incident in October 2011.

### **Final recommendations**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. The defendant was working but did not give money to the victim and was not living together with victim and their baby. For this reason he requested for the court to impose a apply prison sentence of 2 years, suspended for 3 years.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant regretted his actions.

### **Decision**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. The court concluded this matter and sentenced the defendant to 3 years in prison, suspended for two years.

For more information, please contact:

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