



## Case Summary Dili District Court February 2017

**Affirmation:** The following case summaries set out the facts and the proceedings of cases before the court through JSMP's independent monitoring and is based on 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: 44

Article	Type of case	Number of cases
Article 145 of the Penal Code (PC) as well as articles 2, 3, 35, 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on types of domestic violence and Article 36 on domestic violence as a public crime)	19
Article 154 of the PC as well as articles 2, 3, 35 and 36 of the Law Against Domestic Violence	Mistreatment of a spouse	1
Article 155 of the PC as well as articles 2, 3, 35 and 36 of the Law Against	Mistreatment of a minor	1

Domestic Violence		
Articles 138 & 157 of the PC	Homicide and threats	1
Article 145 of the Penal Code (PC) as well as articles 2, 3, 35, 36 of the Law Against Domestic Violence and Article 157 of the PC	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on types of domestic violence and Article 36 on domestic violence as a public crime and the crime of making threats)	1
Articles 23, 138, 146, 157 of the PC	Attempted homicide, serious offences against physical integrity and threats	1
Article 304 of the PC	Aggravated forgery	1
Article 142 of the PC	Infanticide	1
Article 267 of the PC	Aggravated fraud	1
Article 252 of the PC	Aggravated larceny	1
Articles 258 & 251 of the PC	Property damage and larceny	1
Articles 258 & 157 of the PC	Property damage and threats	1
Article 258 of the PC	Property damage	1
Article 300 of the PC	Refusal to cooperate	1
Articles 218 & 244	Crimes against endangered species or species at risk of extinction and disobedience	1
Article 146 of the PC	Serious offences against physical integrity	1
Articles 145 & 157 of the PC	Simple offences against physical integrity and threats	2
Article 145 of the PC	Simple offences against physical integrity	7
	Reciprocal offences against physical integrity	1
<b>Total</b>		<b>44</b>

## 2. Total cases monitored by JSMP: 25

Type of Penalty	Number of cases
Prison sentence	1
Suspension of execution of a prison sentence (Article 68 of the PC)	14
Suspended prison sentence with obligation	1

Suspension of execution of a prison sentence with rules of conduct (Article 70 g) of the PC	1
Suspension of execution of a prison sentence and civil compensation (Article 69)	1
Fine (Article 67 of the PC)	1
Withdrawal of complaint	5
Acquitted	1
<b>Total</b>	<b>25</b>

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

Reason for adjournment	Number of cases
Not enough judges to form a panel (judge dealing with other matter)	1
Judge ill	1
<b>Total</b>	<b>2</b>

### 4. Total ongoing cases based on JSMP monitoring: 17

#### B. Short descriptions of these cases

##### 1. Crime of aggravated larceny

Case No. : 0140/14/DIBCR  
Composition of the court : Single Judge  
Judges : Edite Palmira dos Reis, Ivan Patricinio, Antonio Gonçalves and Maria Modesta  
Prosecutor : Osorio de Deus  
Public Defender : Manuel Lito Exposto  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 1 February 2017 the Dili District Court announced its decision in a case of aggravated larceny involving the defendant BJ who allegedly committed the offence against his friend AdS in Dili District.

#### Charges of the Prosecutor

The public prosecutor alleged that on 15 October 2014 at 10am at the Bidau Santana beach the defendant who works at the Directorate of Sanitation was sweeping the ground near the victim's hut. After he finished sweeping the defendant went into the victim's hut and took the defendant's fish and cooked them. At that time the victim told the defendant that he was going to sell some fish. Inside the hut the victim had US\$

1,900 inside a black bag which was on the veranda. When the victim came back from selling fish, the victim was shocked because the bag was no longer there. On the same day at 2pm the victim went to the defendant's house and saw the defendant sleeping as he was drunk and the victim's bag was beside the defendant.

The prosecutor charged the defendant for violating Article 252 (i) of the Penal Code on aggravated larceny as the defendant took advantage of a special relation of trust with the victim. This crime carries a penalty of 2 to 8 years in prison.

### **Presentation of evidence**

During the trial the defendant confessed that he took the victim's money but he didn't know the exact amount. The defendant took the money to his house and lied to his wife saying that he won the lottery. The defendant used the money to buy 5 boxes of bintang beer, 10 litres of palm wine, 3 boxes of processed chicken and drank alcohol with his friends. The defendant also stated that he gave US\$400 to the victim in front of the police at the Police Station and US\$165 to the victim in front of the prosecutor. The defendant added that inside the bag there was a small towel, hand and body lotion, a telephone, a hat and 3 blue shirts. The defendant regretted his actions and promised to give the rest of the money back to the victim.

The victim maintained the facts set out in the indictment of the public prosecutor and stated that previously the defendant wanted to borrow money but victim did not give it to him.

### **Final recommendations**

The prosecutor stated that the defendant took the victim's money totalling US\$1,900 and had returned US\$565. In addition, he also referred to the mitigating circumstances, namely the defendant regretted his actions and promised to give the rest of the money back to the victim. For this reason the prosecutor requested for the court to impose a apply prison sentence of 3 years, suspended for 4 years.

The public defender requested for the court to impose a more lenient sentence than the one recommended by the prosecution because the defendant regretted his actions, is the breadwinner and has three children.

### **Decision**

After evaluating all of the facts the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor and sentenced the defendant to six months in prison, suspended for 1 year, and ordered him to pay court

costs of US\$20. The court also ordered the defendant to pay back the money within 1 year.

## **2. Simple offences against physical integrity**

Case No. : 0151/2016. DINFT  
Composition of the court : Single Judge  
Judge : Maria Solana Soares  
Prosecutor : Rainato Bere Nahak  
Public Defender : Olga Barreto Nunes  
Type of Penalty : Withdrawal of complaint

On 03 February 2017 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant MG who allegedly committed the offence against the victim JBG in Dili District.

### **Charges of the Prosecutor**

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 266 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 withdraw the complaint against the defendant and asked the defendant not to repeat such behaviour in the future against the victim or other person.

The defendant agreed with the request of the victim to withdraw the complaint and apologised to the victim and the victim's family (wife) who were present during the trial. The defendant also promised not to repeat his behaviour against the victim or other person.

### **Final recommendations**

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 and asked the defendant not to repeat such behaviour in the future.

### **3. Simple offences against physical integrity**

Case No. : 0083/16.PDIDIL  
Composition of the court : Single Judge  
Judge : Antonio do Carmo  
Prosecutor : Nelson de Carvalho  
Public Defender : Marçal Mascarenhas  
Type of Penalty : 2 years in prison, suspended for 3 years and application of rules of conduct

On 7 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant JAB who allegedly committed the offence against his sister in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 14 August 2016 at 6pm the defendant and victim had an argument near a well and the defendant threw the victim's bucket and struck the victim once on her ear and choked the victim. This act resulting in the victim suffering pain to her ear and an injury to her throat caused by the defendant's fingernails.

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 totally rejected the facts set out in the indictment. The defendant stated that victim accused the defendant of committing this crime so therefore the defendant left the house where they were living and the victim had made many accusations like this against the defendant. The victim maintained the facts set out in the indictment of the public prosecutor.

The witness RFG, who is the victim's son, testified that he saw the defendant punch and choke the victim from a distance of approximately one metre. The witness took the victim for treatment at the Guido Valadares National Hospital.

## **Final recommendations**

The public prosecutor requested for the court to sentence the defendant to 2 months in prison, suspended for 3 years, because the public prosecutor considered that the defendant had been found guilty of committing the crime against the victim. On the other hand, the public defender requested for the court to impose a fair penalty against the defendant.

## **Decision**

After evaluating all of the facts the court found the defendant guilty of committing this crime and sentenced the defendant to 1 year in prison, suspended for 3 years. The court also applied rules of conduct obliging the defendant to periodically report to the court once a month, for six months and ordered him to pay court costs of US\$30.

## **4. Simple offences against physical integrity**

Case No. : 0018/16.PDIDIL  
Composition of the court : Single Judge  
Judge : Albertina Neves  
Prosecutor : Napoleão da Silva  
Public Defender : Rui Manuel Guterres  
Type of Penalty : 1 year in prison, suspended for 2 years

On 7 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant LdC who allegedly committed the offence against the victim in Dili District.

## **Charges of the Prosecutor**

The public prosecutor alleged that on 22 February 2016 at 9.30am the victim said that the defendant was a girl and had taken someone's wife. Therefore the defendant punched the victim once on the nose, once on the throat and kicked the victim once in the stomach. These acts caused the victim to suffer a bloody nose and pain to the back of the neck and stomach.

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 confessed all to the facts set out in the indictment of the public prosecutor and stated that he regretted his actions and promised not to repeat

such behaviour against the victim or other person. The victim corroborated the facts set out in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing this crime, and requested for the court to impose a 2 year prison sentence suspended for five years. The defence requested for the court to impose a fair penalty on the defendant.

### **Decision**

The court found the defendant guilty of committing the crime against the victim and sentenced the defendant to 1 year in prison, suspended for 2 years and ordered him to pay court costs of U\$20.

### **5. Simple offences against physical integrity and threats**

Case No. : 0298/14.DIDIL  
Composition of the court : Single Judge  
Judge : Antonio Helder do Carmo  
Prosecutor : Antonio Tavares  
Public Defender : Rui Manuel Guterres  
Type of Penalty : The defendant DRC was sentenced to 1 year in prison, suspended for 3 years and the defendant AA was acquitted

On 7 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendants DRC and AA who allegedly committed the offence against the victim JG in Dili District.

### **Charges of the Prosecutor**

The public prosecutor stated that the victim's wife owed money to the defendant's wife (AA). The victim had paid already but the defendant's wife AA continued to call the victim to ask for interest. Therefore the victim answered the call with verbal abuse. The defendant DRC who is the son of the other defendant did not accept the victim swearing at his mother. On 13 November 2014 the defendant DRC saw the victim and punched the victim 4 times on the forehead, shoulder and eye and kicked the victim once, knocking the victim to the ground. The defendant AA threatened to "beat the victim to death or kill the victim". This assault caused the victim to suffer an injury and bleeding to the eye.

The public prosecutor charged the defendants with violating Article 145 of the Penal Code on simple offence against physical integrity and Article 157 on threats.



## **Presentation of evidence**

During the trial the Court only heard testimony from the defendant AA because the defendant DRC is studying in Indonesia.

The defendant AA rejected the charges and stated that at that time the defendant DRC hit the victim, and the defendant AA told the defendant DRC to stop, and not to beat the victim to death or to kill the victim.

The victim stated that his wife owed US\$175 to the defendant's wife in 2009 with and the interest kept on increasing. The victim stated that he had already paid US\$305. After one month, the defendant's wife kept on calling and asking for the money and for this reason the victim responded with verbal abuse. However they immediately resolved the matter at the police station and the victim apologised to the defendant's wife.

After one month on 13 November 2014 the victim went to the home of his parents in law and saw the defendant DRC going past with his mother and swore at the victim. After dropping off his mother, the defendant returned to where the victim was and punched the victim once on the forehead and kicked the victim once on the back knocking the victim to the ground. The defendant then punched the victim's right eye twice and the victim suffered an injury and bleeding.

The victim maintained that the defendant AA said "beat him to death or kill him". The victim added that as a consequence from the behaviour of the two defendants, the victim was hospitalized for one night and did not work for 2 months.

The witness FL, who is the victim's sister in law, testified that she saw the defendant DRC hit the victim and heard the defendant AA say "a person like this deserves to be beaten to death".

The witness MdC who is the victim's younger sister in law testified that she saw the defendant DRC hit the victim but did not hear the defendant AA make threats against the victim because it was noisy.

The witness LAC, who is the mother of the defendant DRC, testified that the defendant DRC hit the victim because he did not like being sworn at and confirmed that the victim's wife had owed US\$175 since 2009.

## **Final recommendations**

The prosecutor stated that the defendant DRC committed the crime of simple offences against the physical integrity of the victim and the defendant AA was guilty of making threats against the victim. Based on this evidence the prosecutor requested for the court to impose a prison sentence of 2 years against the defendant DRC and a suspended prison sentence of 1 year against the defendant AA. The public prosecutor also requested for the court to order the defendants to pay damages to the victim.

The defence requested for the court to carefully consider all of the evidence. The defence requested for the court to impose a suspended sentence against the defendant DRC and to pay civil compensation to the victim with consideration to the defendant's circumstances and to acquit the defendant AA because the defendant AA had not been proven guilty of committing the crime of threats against the victim.

## **Decision**

After evaluating all of the facts, the Court found the defendant DRC guilty of committing the crime of simple offences against physical integrity based on the facts set out in the indictment of the public prosecutor and imposed a prison sentence of 1 year, suspended for 3 years, and acquitted the defendant AA because the court found that the defendant did not make threats against the victim.

## **6. Reciprocal offences against physical integrity**

Case No. : 0351/2016.DIBCR  
Composition of the court : Single Judge  
Judge : Eugebio Xavier Vitor  
Prosecutor : Osorio de Deus  
Public Defender : Agostinha de Oliveira  
Type of Penalty : Withdrawal of complaint

On 8 February 2017 the Dili District Court announced its decision in a case of reciprocal offences against physical integrity involving the defendant JB who allegedly committed the offence against his wife in Dili District.

## **Charges of the Prosecutor**

The public prosecutor alleged that on 3 June 2016, at 2pm, the victim woke up the defendant who was sleeping. The victim woke up the defendant and asked for US\$20 for a wake ceremony that was taking place in the district, but the defendant woke up and punched the victim four times in the shoulder, took a chair and struck the victim but the victim grabbed the chair to stop it from hitting her. Then the defendant grabbed the victim by the shirt to drag her to the ground but the neighbours grabbed the

defendant by the arm. One day later the victim received treatment at the Comoro clinic.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that some of the facts were true and some facts were not true. The defendant acknowledged that the victim woke up the defendant and asked for US\$20, but the victim said a lot of things and suspected the defendant of having a relationship with another woman, so the defendant slapped the victim once but then the neighbour calmed them down. The defendant denied punching the victim or throwing a chair at the victim and did not grab the victim by the shirt. The defendant added that they are living separately, but they continue to live as husband and wife.

The victim stated that at that time the defendant went to wake up the defendant from the room but because the defendant did not wake up she slapped the defendant on the shoulder to give him a shock, so the defendant was surprised and he slapped the victim once on the left cheek. In relation to the alleged punch and the incident with the chair, the victim said that she said these things because she was angry.

Based on these new facts the court replaced Article 145 of the Penal Code on simple offences against physical integrity characterized as domestic violence with Article 151 of the Penal Code on reciprocal offences against physical integrity.

### **Final recommendations**

The public prosecutor considered all of the statements from the defendant and victim. However the public prosecutor believed that the victim slapped the defendant on the shoulder in order to wake him up, not to slap him. Therefore the public prosecutor maintained the article used to charge the defendant.

The defence agree with the amendment because the victim slapped the defendant on the shoulder which surprised the defendant who responded by slapping the victim once on the cheek.

### **Decision**

Pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim. After evaluating

the agreement between the parties and hearing from the prosecution and defence the court validated the withdrawal of the complaint.

## **7. Refusal to cooperate**

Case No. : 0015/16.PSIK  
Composition of the court : Single Judge  
Judge : Eugebio Xavier Vitor  
Prosecutor : Nelson de Carvalho  
Defence : Marino da Cruz (private lawyer)  
Type of decision : Acquitted

On 10 February 2017 the Dili District Court announced its decision in a case of refusal to cooperate involving the defendants JAG, AdS and FdS who allegedly committed the offence against the Police Forensic and Criminal Investigations Unit (PSIK) in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 12 February 2016 the PSIK sent a letter to the Guido Valadares National Hospital (HNGV) to request a medical report related to allegations of malpractice involving doctors from the HNGV against the deceased person identified as EV. The PSIK also asked the HNGV to authorise five doctors who provided treatment to the victim to make a statement before the PSIK. However the HNGV did not respond, so on 17 February 2016 the PSIK sent a second request.

After receiving the written request the Legal Support Officer from the HNGV responded to this letter and sent an opinion to the PSIK. This letter explained that the Standard Operating Procedure (SOP) of the hospital did not authorise the hospital to issue patient's documents or medical records to any person or institution because they are confidential documents between the patient and the hospital and the medical records of a patient could only be released if there was a request from the Public Prosecution Service or the courts. On 12 March 2016 two members from the PSIK (GdC and FM) met with the Head of Human Resources and the Legal Support Officer from the HNGV and provided an explanation about the work of the PSIK and said that "*if you don't collaborate, we will charge you*".

The public prosecutor alleged that the defendant violated Article 300 of the Penal Code on refusal to cooperate that carries a maximum penalty of 3 year in prison or a fine.

The defence objected to the charges of the public prosecutor. The defence lawyer said it wasn't that his clients did not want to cooperate with the PSIK, but rather his clients

had no knowledge about the work of the PSIK in criminal investigations. In addition, the defendants refused to provide medical records to the PSIK because the hospital's SOP considers these medical records to be confidential documents belonging to the hospital and the patient and they may not be released, except for the interests of academic research, or when there was a request from the Public Prosecution Service or the courts.

The defence lawyer added that after the defendants found out about the work of the PSIK, the HNGV started cooperating and provided data about medical examinations and medical reports to the PSIK to contribute to the investigation process.

### **Presentation of evidence**

During the trial the defendant JAG, who is a specialist doctor and the Director of the HNGV, stated that he received a request from the PSIK and sent it to the Department of Human Resources and Judicial Support to examine the issue. However, two weeks later he received an opinion piece from the Legal Support Officer that stated that they could not provide data to the PSIK because the hospital SOP prohibits the release of a patient's medical records because they are considered to be confidential documents belonging to the hospital and the patient.

The defendant AdS, who is the Head of the Department of Human Resources at the HNGV, stated that he received the request from the Director of the HNGV about the PSIK letter that was sent to the doctors to provide a statement to the PSIK. However, because this was a legal matter he waited for the legal opinion of the Legal Support Officer. The defendant also stated that previously they did not know about the work of the PSIK, and therefore they did not collaborate and did not provide data to the PSIK.

The defendant FdS, who is the Legal Support Officer, stated that this was the first time he sent a legal opinion to the PSIK that contained a refusal to cooperate with the PSIK. He sent the legal opinion because he did not know about the work of the PSIK and also because the Hospital's SOP prohibits the release of a patient's medical records to any institution. The defendant added that he only found out about the work of the PSIK when two members of the PSIK went to the hospital to explain about their work. Since receiving the explanation the PSIK and HNGV have had good collaboration and have established a MOU. In relation to the letter from the PSIK which was not responded to, the witness also explained about the content of the letter sent by the PSIK to the HNGV and explained about the allegations of malpractice involving doctors from the HNGV in the case of the deceased victim (EV).

After hearing the testimony of the defendants, the public prosecutor did not require testimony from the witness FGM who was the Chief of the PSIK Investigations Unit. In addition, the defence lawyer did not require witnesses to appear before the court.

### **Final recommendations**

The public prosecutor stated that the defendants had confessed and acknowledged their behaviour. Therefore based on the general and extraordinary mitigating circumstances (they did not know about the work of the PSIK as well as the SOP that prohibited the release of confidential documents to any person), he requested for the court to issue an admonishment against the defendants. However, if the court decides otherwise, then he recommended for a fine to be imposed against the defendants.

The defence lawyer also agree with the final recommendations of the public prosecutor but left it to the discretion of the court to apply another penalty, that should be more lenient in nature, and should not limit the freedom of the defendants.

The defendant JAG in his final statement said that as a result of this legal proceeding he would make sure not to repeat the same act in the future. The defendant AdS thanked the PSIK for taking them to court so they could understand the legal process and improve their work in the future.

### **Decision**

After evaluating the facts that were established during the trial, the court acquitted the defendants from the charges of the public prosecutor because the court found that the defendants did not commit the crime of refusal to cooperate. The defendants did not cooperate with the PSIK because the SOP prohibited the release of medical reports to any person or institution, except the Public Prosecution Service or the courts.

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

Case No.	: 0008/16. LIMBER
Composition of the court	: Single Judge
Judge	: Maria Solana
Prosecutor	: Ivonia Maria Guterres
Public Defender	: Olga Bareto
Type of Penalty	: 6 months imprisonment, suspended for 1 year

On 10 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RAC who allegedly committed the offence against his wife in Liquica District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 18 May 2016 at 4pm the defendant punched the victim twice on the right side of the head, kicked the victim once on the back and grabbed the victim's hair and knocked the victim to the ground. The incident occurred after the defendant was returning from a wake, and he took off his uniform and put it on the veranda and their young child bit the uniform and the victim told the defendant not to throw his uniform on the ground so the child could not put dirty clothes in its mouth. These acts caused the victim to suffer pain to her head and 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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to the facts set out in the indictment and stated that they resolved this case in accordance with Timorese tradition and the defendant paid for his mistake by giving US\$50 and 4 bottles of palm wine to the parents of the victim to show regret.

The victim maintained the facts set out in the indictment of the public prosecutor and confirmed the statement of the defendant that they resolved this case in accordance with Timorese tradition, and the defendant gave US\$50 and 4 bottles of palm wine to the victim's parents.

### **Final recommendations**

The public prosecutor stated that all of the facts were proven, and to prevent such crimes in the future he requested for the court to sentence the defendant to three months in prison, suspended for 1 year.

The public defender requested for the court to consider mitigating circumstances such as the defendant has reconciled with the victim, has given US\$50 and 4 bottles of palm wine to the parents of the victim. Therefore he requested for the court to issue an admonishment against the defendant.

### **Decision**

The court found the defendant guilty of committing the crime and sentenced the defendant to 6 months in prison, suspended for 1 year.

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

Case No. : 0004/16. ALLR  
Composition of the court : Single Judge  
Judge : Maria Solana  
Prosecutor : Ivonia Maria Guterres  
Public Defender : Cancio Xavier  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 10 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JM who allegedly committed the offence against his son in Aileu District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 11 February 2016 at 6am the defendant and the victim were cutting up meat in the kitchen. Before they had finished the victim stood up and walked off so the defendant scooped up the meat and the knife and threw it at the victim. The knife struck the victim in the stomach and the victim suffered an injury and received two stitches.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to all of the facts set out in the indictment of the public prosecutor, regretted his actions and stated that he had no intention to harm his son and did not think that the knife was together with the meat. After the incident the defendant took the victim to get treatment at the Laulara Health Centre. The victim maintained the facts set out in the indictment of the public prosecutor and confirmed that after the incident the defendant took the victim for treatment at the health centre.

### **Final recommendations**

The public prosecutor requested for the court to sentence the defendant to 1 month in prison, suspended for 2 years, because the public prosecutor considered that the defendant had been found guilty of committing the crime against the victim based on the facts set out in the indictment.



The defence stated that the defendant was negligent or did not intend to commit the crime and the defendant himself took the victim to receive treatment. Pursuant to Article 57 of the Penal Code on degrees of extraordinarily mitigating circumstances, the public defender requested for the court to sentence the defendant to 3 months in prison, suspended for 3 months.

### **Decision**

The court considered that the defendant did injure the victim based on the facts set out in indictment of the public prosecutor, but there was no intent. Based on these considerations, the court concluded the matter and sentenced the defendant to six months in prison suspended for 1 year and ordered him to pay court costs of US\$20.

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

Case No. : 003/15/DIDIL  
Composition of the court : Single Judge  
Judge : Fransisca Cabral Marques  
Prosecutor : Ivonia Maria Guterres  
Public Defender : Estaque Pereira Guterres  
Type of Penalty : 1 year in prison, suspended for 1 year and 6 months

On 15 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JB who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 5 October 2014, at 10am, the defendant told his younger sibling to buy some instant noodles, and to cook them, and then the defendant ate by himself. After eating the defendant got on his motorcycle and was about to leave, so the victim asked him where he was going. The defendant responded that the victim did not need to know. The victim also asked the defendant for money but the defendant did not give her any, so the victim took her children and stayed with her older sister for two days.

On 7 October 2014 the victim and her children returned home. The victim went into the room and the defendant was lying down and the defendant asked the victim why she was only returning now and why she did not ask his permission when she left. The victim said what more could she do, how could she feed the children. Then the defendant swore at the victim, got up from the bed and punched the victim once on her left ear, once on the head, kicked her once in the chest, elbowed her in the back and the victim fell to the ground. While she was on the ground the defendant sat on

the victim and punched her many times in the head and back until the victim wet herself.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant acknowledged the facts that occurred on 5 October 2014 but rejected some of the facts that occurred on 7 October 2015. The defendant stated that the victim returned home, and he asked her a question as was stated in the indictment and then they had an argument. However the defendant denied that he swore at the victim, and said he did not sit on the victim, did not punch the victim many times in the head and back until she wet herself. The defendant added that at that time he grabbed the victim because the victim was acting out against him. The defendant also stated that when victim asked for money the defendant gave US\$200 to the victim and the defendant used the rest to conduct a business. The defendant stated that he threw a pillow at the victim and the victim also smashed the defendant's laptop and the defendant slapped the victim once on the cheek, punched her three times on the back, kicked her once and elbowed her on the back until the victim fell to the ground.

The victim maintained the facts set out in the indictment and stated that while the defendant was working the defendant did not give money to the victim and went out whenever the defendant felt like it.

### **Final recommendations**

The public prosecutor stated that the defendant committed the crime against the victim. Also the public prosecutor considered the aggravating factors, such as while he was working the defendant did not give money to the victim, the defendant committed the crime against his wife who he is supposed to protect and the defendant is also a nurse and knows the danger of punching someone who is pregnant. The public prosecutor also considered the mitigating circumstances such as the defendant was a first time offender, is the breadwinner of his family and he cooperated with the court.

Based on these circumstances, the public prosecutor requested for the court to sentence the defendant to 1 month in prison, suspended for 3 years, to prevent the defendant from repeating his actions in the future.

The public defender requested for the court to consider all of the circumstances surrounding this crime and to apply a suspended prison sentence that is more lenient than the recommendation of the public prosecutor.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor and sentenced the defendant to 6 months in prison, suspended for 1 year.

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

Case No. : 0086//2015/ PENSİK  
Composition of the court : Single Judge  
Judge : Antonino Gonçalves  
Prosecutors : Ivonia Guterres and Osorio de Deus  
Public Defender : Olga Barreto  
Type of Penalty : 1 year in prison, suspended for 2 years

On 15 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AA who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor stated that on 15 June 2015, at 9pm, the victim was asleep in the room and heard the defendant call out to their eldest daughter to buy some vegetables and instant noodles. The victim woke up to cook the food and the defendant told the victim that it was not necessary to prepare some vegetables and the victim could eat at the home of her younger sister. When the victim returned home and was watching television the defendant walked in front of the victim and squeezed a bottle of water that squirted into her eye and the victim swore at the defendant and then the defendant punched the victim once above her left eye, grabbed the victim by the throat and punched her once in the head. These acts caused the victim to suffer swelling to her head and bruising to her throat.

On the morning of 1 July 2015 at the Comoro roundabout the defendant went past on a motorcycle and saw the victim walking. The defendant got off the motorcycle and grabbed the victim's shirt and arm and the victim fell to the ground and he told the victim "*You have gone too far.*"

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that some of the facts were true and some facts were not true. The defendant denied that he squeezed a bottle of water that squirted water on the face of the victim and that he did not grab her shirt. According to the defendant, the victim squeezed the bottle of water and the water squirted on the defendant's face, so the defendant punched the victim once above the eye, grabbed her by the throat and punched her once in the head.

In relation to the incident on 1 July 2015 the defendant stated that he did not grab the victim by her shirt and only grabbed her by the arm. The victim did not fall to the ground. However, the victim maintained the facts set out in the indictment of the public prosecutor.

After hearing the testimony of the defendant and victim, the court had doubts about the facts relating to the squeezing the bottle of water. Due to these doubts the court cross examined the victim and the defendant but each party maintained their testimony.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, even though the defendant only confessed to some of the facts, and also considered the aggravating circumstances such as the defendant committed the crime in front of their child. However the public prosecutor also considered the mitigating circumstances such as the defendant was a first time offender, is the breadwinner of the family and collaborated with the court, and therefore he requested for the court to sentence the defendant to 1 year in prison, suspended for 3 years, and asked him not to reoffend in the future. The public defender requested for the court to consider all of the circumstances surrounding this case and to impose a penalty reflecting the gravity of this crime.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor. For this reason the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 2 years.

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

Case No. : 0074/16.DIBCR  
Composition of the court : Single Judge  
Judge : Albertina Neves  
Prosecutor : Osorio de Deus  
Public Defender : Jose da Silva  
Type of Penalty : 1 year in prison, suspended for 2 years

On 17 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RdP who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 15 February 2016 at 8pm the defendant was going to go out in the car and the victim asked for US\$0.25 to buy some satays for their child. However the defendant said he had no money. The victim said that somehow he still had money to give to his mistress. The defendant got out of the car and slapped the victim once on her left cheek, once on her right cheek and twice slapped the victim above the eye and dragged the victim into the room and stomped on her left thigh.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to the facts and testified that he had already apologised to the victim and has not hit the victim since that time. The victim maintained the facts set out in the indictment of the public prosecutor and stated that they have reconciled.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. After considering the mitigating circumstances, such as the defendant and victim have reconciled, and in order for the court to deter the defendant from repeating such acts in the future the public prosecutor requested a prison sentence of 3 years, suspended for 4 years.

The public defender requested for the court to consider all of the circumstances surrounding this case and to impose a penalty reflecting the gravity of this crime.

## **Decision**

After evaluating all of the facts, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the prosecutor and sentenced the defendant to 1 year in prison, suspended for 1 year, and ordered him to pay court costs of US\$30.

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

Case No. : 0033/16.DIBCR  
Composition of the court : Single Judge  
Judge : Antonio Helder do Carmo  
Prosecutor : Ivonia Maria Guterres  
Public Defender : Fernando Lopes de Carvalho  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 17 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CdS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 29 March 2016 at approximately 12 midnight the victim was sleeping with their young child and suddenly the defendant swore at her, punched and kicked the victim in the shoulder and also pulled the victim's hair. The defendant punched the victim four times in the head and kicked the victim twice on her side, causing the victim to fall to the ground. These acts caused the victim to suffer swelling to her side and bruising to her shoulder and she was treated in hospital.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to the facts set out in the indictment and stated that problem occurred when the defendant called out to the victim because he wanted to talk to her (the defendant suspected the victim of having a relationship with another man), but the victim did not want to talk to him. The defendant also stated that now they have reconciled, are living as husband and wife and the defendant is a first time offender.

The victim also maintained the facts set out in the indictment and stated that at that time the defendant called out to the victim because he wanted to talk to her but the victim pretended to be sound asleep. The victim also stated that they have been living together since 1992 and this was the first time that the defendant committed serious violence against her, even though they previously had some problems. The victim stated that after the incident they lived separately with their respective parents for two months. But now they are living together as husband and wife and no further crimes have occurred.

### **Final recommendations**

The public prosecutor stated that the defendant committed the crime against the victim and previously they had problems, however the victim did not make a complaint and only complained about the most recent incident because the victim felt that the defendant had committed a serious crime. The public prosecutor stated that domestic violence crimes are prevalent in Timor-Leste, and therefore to deter such crimes from occurring in the future, he requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years.

Based on the mitigating circumstances, such as the defendant confessed to his actions, has reconciled with the victim, has 8 children and has limited economic capacity, the public defender requested for the court to impose a suspended prison sentence against the defendant.

### **Decision**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment of the public prosecutor. Based on the circumstances surrounding this crime, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

### **14. Crime of property damage**

Case No.	: 0720/15.DICMR
Composition of the court	: Single Judge
Judge	: Sribuana da Costa
Prosecutor	: José Elo
Public Defender	: Manuel Sarmento
Type of Penalty	: Withdrawal of complaint

On 18 February 2017 the Dili District Court attempted conciliation in a case of property damage involving the defendants DC and the victim DP in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on the morning of 11 November 2015, the defendant and the wife of the victim had an argument. In the afternoon the victim had just returned from work and went looking for the defendant and said “who is the tough guy that was arguing with my wife this morning?” After making the statement the victim went home. Then the defendant and his friends went to the home of the victim and threw stones at the victim's house. This act caused damage to 13 sheets of corrugated iron. Each sheet is valued at US\$2.75.

The public prosecutor alleged that the defendant violated Article 258 of the Penal Code on property damage with 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 266 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 withdraw the complaint against the defendant and asked the defendant not to repeat such behaviour in the future against the victim or other person. The defendant apologised to the victim and his wife before the Court. The defendant also promised not to repeat his behaviour against the victim in the future. In relation to the damage to the corrugated iron, the defendant promised to replace it but the victim said it was not necessary and the victim said that what is important is that they have reconciled.

### **Final recommendations**

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 defendant and the victim, the Court decided to validate the settlement and told the defendant not to repeat such acts against the victim or other person.

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

Case No. : 0200/16.DICMR  
Composition of the court : Single Judge  
Judge : Ivan Patricinio



Prosecutor : Ivonia Guterres  
Public Defender : Laura Lay  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 20 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JTL who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 17 April 2016 at approximately 4pm, the victim asked the defendant for money to buy basic necessities but the defendant slapped the victim once on the right cheek and once 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 Article 2, 3, 35 and 36 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, this was the first time he committed a crime against the victim since they have been together and they have three children.

The victim maintained the facts set out in the indictment of the public prosecutor and stated that the victim no longer wanted to live with the defendant because the defendant earns US\$1,000 but only gives her a small amount to buy basic necessities. However, the victim confirmed that this was the first time that the defendant hit the victim.

### **Final recommendations**

The public prosecutor stated that the defendant committed this crime and requested for the court to impose a fine against the defendant because the defendant has the financial capacity to pay the fine. The public defender requested for the court to impose an admonishment against the defendant because the defendant regretted his actions and was a first time offender.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor and sentenced the defendant to 6 months in prison, suspended for 1 year.

## **16. Simple offences against physical integrity**

Case No. : 0377/16. DICMR  
Composition of the court : Single Judge  
Judge : Maria Modesta  
Prosecutor : Pedro Baptista  
Public Defender : Marcia Sarmento  
Type of Penalty : Withdrawal of complaint

On 21 February 2017 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant FP who allegedly committed the offence against the victim YI in Dili District.

### **Charges of the Prosecutor**

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 266 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 withdraw his complaint against the defendant but asked the defendant to pay compensation for the victim's embarrassment because the defendant hit the victim in front of many people. The defendant apologised to the victim and agreed with victim's request to pay for the victim's humiliation with a traditional cloth (tais) and US\$50.

### **Final recommendations**

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 complaint and the amicable agreement between the defendant and victim, with consideration of Article 106 of the Penal Code, Article 216 and Article 262 of the Criminal Procedure Code, the court validated the request to withdraw the complaint.

## **17. Simple offences against physical integrity**

Case No. : 0042.16/PCCIC  
Composition of the court : Single Judge

Judge : Jose Maria Araujo  
Prosecutor : Antonio Tavares  
Public Defender : Marinho da Cruz  
Type of Penalty : 1year in prison, suspended for 2 years and civil compensation for the victim totalling US\$400

On 22 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant VHML who allegedly committed the offence against JL in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on an unspecified day in 2016 the defendant approached the victim and his friends and asked the victim “*are you talking about me..?*” Then the defendant took a piece of wood and struck the victim on the arm causing swelling and a broken arm and the victim had to receive treatment at the Guido Valadares National Hospital and traditional treatment, and until now the victim's arm has not healed yet.

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.

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

The court found that the defendant committed the crime as set out in the indictment and also found that the victim's arm has not healed yet and the victim is still receiving traditional treatment. The court found the defendant guilty based on the testimony of the defendant, victim and the witness who provided traditional treatment to the victim and other documentary evidence such as photographs in the case file.

The court sentenced the defendant to 1 year in prison suspended for 2 years and ordered him to pay civil compensation of US\$ 400 to the victim. The court also stated that the defendant must pay the civil compensation within 3 months from the date that the decision entered into force pursuant to Article 72.2 (b) of the Criminal Procedure Code<sup>2</sup> and Article 417.1 of the Civil Code<sup>3</sup>.

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<sup>1</sup> JSMP did not manage to obtain information about the presentation of evidence and the final recommendations from the prosecutor and public defender

<sup>2</sup> The judge can determine civil compensation in the criminal proceeding where the aggrieved party fails to make a pronouncement on the issue within eight days

<sup>3</sup> Obligation to pay civil compensation as a result of the harm caused by the violence.

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

Case No.	: 0332/15. DICMR
Composition of the court	: Single Judge
Judge	: Ivan Antonio Gonsalves
Prosecutor	: Ivonia Guterres
Public Defender	: Marcia Sarmento
Type of Penalty	: 1 year in prison, suspended for 2 years

On 23 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ADG who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 31 May 2015 at 7am the defendant and victim had an argument when the defendant was taking their child to Ermera but the victim did not agree. The defendant punched the victim twice on the shoulder, twice on her left leg and kicked the victim once on her right leg. These acts caused the victim to suffer pain to her shoulder, left and right legs.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed some of the facts and stated that he only slapped the victim twice on the shoulder. The defendant also stated that he regretted his actions, was a first time offender and promised not to reoffend. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing this crime, and requested for the court to impose a 3 year prison sentence suspended for three years. The defence requested for the court to impose a fair penalty on the defendant.

### **Decision**

The court found that the defendant committed the crime of simple offence against the physical integrity of the victim and sentenced the defendant to 1 year in prison, suspended for 2 years.

## **19. Simple offences against physical integrity**

Case No. : 0116/16.PDIDIL  
Composition of the court : Single Judge  
Judge : Julmira Maria Barros  
Prosecutor : Hipolito Santa  
Public Defender : Manuel Sarmiento  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 23 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant JdC who allegedly committed the offence against the victim MB in Hera, Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 10 July 2016, at 9am, the victim went and met the defendant and asked if the defendant accused the victim's uncle of being a thief, a militia commander and a sorcerer. The defendant asked "*What's it got to do with you... ?*" After he asked the question the defendant took a piece of wood and struck the victim on the right side of the head causing the victim to suffer swelling to his 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 totally confessed to the facts set out in the indictment of the public prosecutor and stated that he committed this crime because the victim swore at the defendant's mother. In response to the contents of the indictment, the defendant stated that he said bad things about the victim's uncle because his uncle had taken some sago from a piece of disputed land. The victim maintained the facts set out in the indictment and stated that he asked nicely and did not swear.

### **Final recommendations**

The public prosecutor requested for the court to sentence the defendant based on the evidence established during the trial. The public defender requested for the court to issue an admonishment against the defendant.

### **Decision**

The public prosecutor said that the defendant was guilty of committing the crime based on the facts set out in the indictment and requested for the court to sentence the victim to six months in prison, suspended for one year.

## **20. Property damage and larceny**

Case No. : 0557/16.DICMR  
Composition of the court : Single Judge  
Judge : Edite Palmira  
Prosecutor : Jose Elu  
Public Defender : Marçal Mascarenhas  
Type of Penalty : Withdrawal of complaint

On 23 February 2017 the Dili District Court attempted conciliation in a case of property damage involving the defendant DN and the victim BM in Kailaku, Ermera District.

### **Charges of the Prosecutor**

The public prosecutor alleged that the victim swore at the defendant when he found the defendant picking a sack full of the victim's coffee. Therefore the defendant threw stones at the victim's house causing damage to some sheets of corrugated iron.

The public prosecutor alleged that the defendant violated Article 251 of the Penal Code on larceny and Article 258 of the Penal Code on property damage.

### **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 withdraw his complaint against the defendant because they are related. The defendant apologised to the victim, regretted his actions and promised not to repeat his behaviour in the future.

### **Final recommendations**

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 victim's request to withdraw the complaint and the amicable agreement of the two parties, the court validated the settlement of this case. The court also told the defendant not to repeat such acts or crimes against the victim or other person and the defendant will be held legally responsible.

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

Case No. : 0112/16. DICMR  
Composition of the court : Single Judge

Judge : Albertina Neves  
Prosecutor : Ivonia M. Guterres  
Public Defender : João de Carvalho  
Type of Penalty : Fine of US\$ 120

On 23 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EMA who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 28 February 2016 at 9pm the defendant returned from his workplace and asked about the new phone number that the victim used to contact him. The victim did not respond so the defendant punched the victim three times above her right eye which caused an injury and she received two stitches.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to the facts set out in the indictment of the prosecution and testified that regretted his actions. The defendant also promised not to repeat his behaviour in the future. The victim maintained the facts set out in the indictment of the public prosecutor and stated that they have reconciled.

### **Final recommendations**

The public prosecutor stated that the defendant committed this crime, but because the defendant confessed, has reconciled with the victim and promised not to reoffend in the future, he requested for the court to order the defendant to pay a fine.

The public defender agreed with the recommendation of the public prosecutor and requested for the court to order the defendant to pay a fine as the most appropriate penalty.

### **Decision**

The court found that the defendant committed the crime based on the facts set out in the indictment of the public prosecutor and sentenced the defendant to pay a fine of US\$120, which is to be paid in instalments of US\$2.00 a day for 60 days and ordered the defendant to pay court costs of US\$ 10. If the defendant does not pay the

aforementioned fine the defendant will have to serve a prison sentence of 40 days as an alternative punishment.

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

Case No. : 0336/15. DICMR  
Composition of the court : Single Judge  
Judge : Jacinta Coreia  
Prosecutor : Ivonia M. Guterres  
Public Defender : Sebastião Amado  
Type of Penalty : 6 months imprisonment, suspended for 1 year and 6 months

On 23 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DS who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 13 June 2015 the defendant and the victim had an argument because the defendant told their daughter to buy cigarettes and gave their daughter some money. Then the defendant threw a steel chair at the victim's head but the victim blocked it with her hand and it struck the victim's fingers and left cheek. This act caused the victim to suffer an injury to her fingers and swelling to her 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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial, the defendant used his right to remain silent. However, the victim maintained the facts set out in the indictment of the public prosecutor. The victim stated that after the incident the victim went and lived with her parents and after three days the defendant went and summoned the victim to resolve their problem so they could live together as husband and wife.

### **Final recommendations**

The public prosecutor stated that the all of the facts had been proven and because the defendant is a public servant he requested for the court to order the defendant to pay a fine. The public defender requested for the court to uphold justice in the interests of the



defendant because the defendant and the victim have reconciled and the defendant is the breadwinner of the family.

### **Decision**

The court found that the defendant committed this crime based on the facts set out in the indictment of the public prosecutor. Based on the facts that were proven and all of the circumstances surrounding this crime, and pursuant to articles 2 and 5 of the CEDAW Convention the court sentenced the defendant to six months in prison, suspended for 1 year and six months.

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

Case No. : 0528/16.DICMR  
Composition of the court : Single Judge  
Judge : Eugebio Xavier Vitor  
Prosecutor : Napoleão Soares da Silva  
Public Defender : Fernando Lopes de Carvalho  
Type of Penalty : Prison sentence of 1 year, suspended for 1 year and 6 months

On 24 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant OdA who allegedly committed the offence against his sister in law (wife of his brother) in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 30 August 2016 at 10pm the defendant and the victim had an argument and the victim smashed the defendant's telephone and took a machete and smashed the speedometer of a motorcycle. Then the defendant dragged the victim and the victim's cheek struck the wall and caused an injury. The defendant also bent the victim's hand backwards and pushed the victim over and the victim suffered an injury to her knees.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant denied that he dragged the victim or bent the victim's hand backwards. The defendant stated that at that time he just grabbed the victim's

hand and told the victim to go inside. However, the victim maintained the facts set out in the indictment of the public prosecutor.

The witness VN who is the victim's younger sibling confirmed the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor stated that the defendant committed the crime against the victim, even though the defendant denied the facts set out in the indictment. Based on the victim's statement, the testimony of the witness and the aggravating circumstances such as the defendant committed the crime against his brother's wife who he is supposed to respect, and the mitigating circumstances such as the defendant was a first time offender, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 1 year and six months.

The public defender requested for the court to consider all of the circumstances surrounding the case and to impose a fair penalty against the defendant.

### **Decision**

The court found the defendant guilty of committing the crime and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months.

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

Case No.	: 0600/14. DICMR
Composition of the court	: Single Judge
Judge	: Maria Solana
Prosecutor	: Ivonia Maria Guterres
Public Defender	: Humberto Alves
Type of Penalty	: 1 year in prison, suspended for 2 years

On 24 February 2017 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JRX who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 9 December 2014 the victim was getting ready for a hospital consultation. Suddenly without a clear reason the defendant entered the room and punched the victim once on the head, slapped her once on the right cheek and once on the left cheek. The defendant beat the victim on the back with a chair and

smashed a mirror in the bedroom. These acts caused the victim to suffer pain to her head, cheek and back and caused the victim to feel afraid.

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 Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant denied the facts set out in the indictment of the public prosecutor and stated that since they had been living together as husband and wife he never hit the victim and the victim always avoided the defendant.

The victim maintained the facts set out in the indictment of the public prosecutor and stated that since she has been with the defendant she has been beaten four times. In addition, the defendant always disagreed with the victim's family visiting Dili and also was suspicious of the victim and her family members. The victim added that because of the defendant's actions the victim has been separated from the defendant for approximately 3 years.

### **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 from occurring in the future, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 3 years.

The public defender had doubts about the crime because the defendant completely denied the facts, there was no medical report to corroborate the victim's injuries and no eyewitnesses. For this reason he requested for the court to acquit the defendant from these charges.

### **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 and ordered the defendant to pay court costs of US\$ 10.

## **25. Infanticide**

Case No. : 0081/16.PNSIC

Composition of the court : Panel

Judges : Eugebio Xavier Vitor, Ana Paula Fonseca and Jacinta Correia da Costa  
Prosecutor : José Elu  
Public Defender : Manuel Rui Guterres  
Type of Penalty : 4 years in prison

On 27 February 2017 the Dili District Court announced its decision in a case of infanticide involving the defendant MdA and the defendant FMI who allegedly committed the offence against their newborn baby in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that in 2013 two defendants were boyfriend and girlfriend. In August 2015 the female defendant told the male defendant that she was pregnant. When he heard this news, the male defendant told the female defendant to get an abortion. On 13 April 2016 at 1:30am the female defendant felt ready to give birth and called the male defendant to take her to hospital but he did not want to and told her to choke the newborn baby to death. At 4:00 am the victim went into the bathroom and gave birth to a baby girl. She called to tell the male defendant but when he heard the news he told her to kill the baby and throw it in the river. Therefore the female defendant wrapped the baby's umbilical cord around its neck and choked the baby to death.

The public prosecutor alleged that the defendants 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 female defendant denied that she choked the baby with its umbilical cord. The female defendant confessed that she choked the baby to death, wrapped the baby up in a cloth and buried on the side of a hill. The female defendant acknowledged that she had a relationship with the male defendant and had sexual intercourse eight times until she became pregnant.

The female defendant added that when the male defendant heard she was pregnant he continuously told her to have an abortion because he was still at school. The male defendant also told the female defendant to drink alcohol, consume ginger and pineapple and to take medicine that would cause a miscarriage. The female defendant consumed those things but she did not suffer a miscarriage. The female defendant also stated that the male defendant always punched her in the stomach with the aim of causing a miscarriage, but he was unsuccessful.

The male defendant acknowledged that he had a relationship with the female defendant and had sexual intercourse eight times but he didn't know when she became pregnant. The male defendant stated that he was surprised when he received a phone call from the female defendant telling him that she was about to give birth. At that time the male defendant could not meet with the female defendant because the place where she lived was protected by a locked gate and he totally rejected the facts as claimed by the female defendant.

### **Decision**

After evaluating all of the facts the court found the female defendant and the male defendant guilty of committing the crime of infanticide against their newborn baby. Based on the facts that were proven the court concluded the matter and sentenced the female defendant and the male defendant to 4 years in prison. The public defender will lodge an appeal against this decision.

For more information, please contact:

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