



## Case Summary

### The Oecusse District Court

#### January 2017

**Affirmation:** The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, as well as 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 Oecusse District Court

#### 1. Total cases monitored by JSMP: 18

Articles	Type of case	Cases
Article 145 of the Penal Code (PC) and Article 35 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence	11
Article 151 of the PC	Reciprocal offences against physical integrity	1
Article 145 of the PC	Simple offences against physical integrity	2
Article 157 of the PC	Crime of property damage	1
Article 207 of the PC	Driving without a license	2
Articles 258 & 251 of the PC	Property damage and larceny	1

Rua Beco Lakateu, Aldeia Manu fuik,  
Suku Colmera, Administrativu Vera Cruz  
Dili Timor Leste  
PoBox: 275

Telephone: 3323883 | 77295795

[www.jsmp.tl](http://www.jsmp.tl)

[info@jsmp.minihub.org](mailto:info@jsmp.minihub.org)

Facebook: [www.facebook.com/timorleste.jsmp](https://www.facebook.com/timorleste.jsmp)

Twitter: @JSMPtl

<b>Total</b>		18
--------------	--	----

## 2. Total cases monitored by JSMP: 17

Type of decision	Cases
Suspended prison sentence – (Article 68) PC	9
Fine - Article 67 of the PC	2
Penalty of admonishment	2
Withdrawal of complaint	2
Acquitted	1
<b>Total</b>	<b>17</b>

## 3. Total cases adjourned based on JSMP monitoring: 1

Reason for adjournment	Cases
Victim was not present	1
<b>Total</b>	<b>1</b>

### A. Short description of proceedings in these cases

#### 1. Simple offences against physical integrity characterized as domestic violence

Case No. : 0169/16.OESIC  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Ricardo Leite Godinho  
Public Defender : Afonso Gomes Fatima  
Type of Penalty : Penalty of admonishment

On 16 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant GMX who allegedly committed the offence against his wife in Oecusse District.

## **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 13 November 2016, at approximately 11pm, the defendant slapped the victim once on her left cheek causing pain and bruising to the victim's 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 3 years prison or a fine, together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of domestic violence. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

## **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, was a first time offender and has reconciled with victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

## **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant had been found guilty of committing the crime against his wife and the defendant should have provided protection to the victim, his wife, who had no power to resist the defendant. For this reason he requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment and was a first time offender and therefore requested for the court to impose a fair penalty against the defendant.

## **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and convicted the defendant and issued an admonishment and ordered the defendant to pay court costs of US\$ 20.

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

Case No. : 0025/16.OEOSL

Composition of the court : Single Judge

Judge : João Ribeiro

Public Prosecutor : Ricardo Leite Godinho  
Public Defender : Marcelino Marques Coro  
Type of Penalty : 9 months imprisonment, suspended for 1 year

On 16 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Batista Suni who allegedly committed the offence against his brother in law Domingos Eco, in Bobometo Village, Oesilo Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 15 September 2016, at approximately 11:30am, the defendant punched the victim five times in the head and once on the right side of the victim, which caused the victim to suffer swelling and bruising to his head and side. This incident occurred because of an argument about land borders. The prosecution attached a medical report from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

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 stated that some of the facts were true and some facts were not true. The facts were that the defendant did not punch the victim five times in the head, and did not strike the victim on his side. The defendant also stated that he regretted his actions and was a first time offender, the defendant is a farmer who earns between US\$10.00 - US\$20.00 per month. The victim maintained the facts set out in the indictment of the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant was guilty of committing the crime against the victim. Therefore he requested for the court to order the defendant to pay a fine. The defence stated that the defendant confessed to what he had done and regretted his actions. Therefore he 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 concluded the matter and sentenced the defendant to 9 months in prison, suspended for 1 year.

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

Case No. : 0027/16.OEPMK  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Ricardo Leite Godinho  
Public Defender : Marcelino Marques Coro  
Type of Penalty : 6 months imprisonment, suspended for 1 year

On 16 January 2017 the Oecusse District Court announced its decision in a case of making threats and simple offences against physical integrity characterised as domestic violence involving the defendant PdJE who allegedly committed the offence against his wife in Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 3 August 2016, at approximately 20:00, the defendant twice choked the victim causing pain to her throat. In addition the defendant also threatened the victim by saying “*one day you will die*”.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of domestic violence.

### **Presentation of evidence**

During the trial the court attempted conciliation in relation to the crime of threats, and the defendant apologised to the victim 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. Based on an agreement between the two parties and the request to withdraw the complaint from the victim, the court validated the request to withdraw the complaint.

In relation to the crime of domestic violence, the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his behaviour, was a first time offender and has reconciled with victim, the defendant is a temporarily employed teacher at secondary school and earns US\$125.00 per month and has 3 children.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant had been found guilty of committing the crime against the victim and the defendant should have provided protection to the victim as a woman who had no power to resist the defendant.

For this reason he requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. Therefore he 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 concluded the matter and sentenced the defendant to 9 months in prison, suspended for 1 year.

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

Case No.	: 0179/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Marcelino Marques Coro
Type of Penalty	: Punishment of 1 year in prison, suspended for 1 year

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

## **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 29 September 2016, at approximately 11pm, the defendant punched the victim once below her left eye, causing pain and bruising. A medical report was included in the case file from the Oecusse Pradet and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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, was a first time offender and has reconciled with victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant was guilty of committing the crime against the victim. For this reason he requested for the court to impose a prison sentence of 9 months, suspended for 1 year.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, and therefore he requested for the court to impose an adequate penalty against the defendant.

### **Decision**

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

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

Case No.	: 0173/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Marcelino Marques Coro
Type of Penalty	: 6 months imprisonment, suspended for 1 year

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

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 21 September 2016, at approximately 4pm, the defendant slapped the victim once on her right cheek, slapped the victim once more on her left cheek and the defendant also kicked the victim once on her right thigh. A medical report was included in the case file from the Oecusse Pradet and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 45 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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, was a first time offender and has reconciled with victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant was guilty of committing the crime against the victim. Therefore the public prosecutor requested for the court to impose a sentence of 6 months in prison, suspended for one year. The defence stated that the defendant confessed all of the facts in the indictment and was a first time offender. Therefore he 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 concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

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

Case No.	: 0175/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: Withdrawal of complaint

On 18 January 2017 the Oecusse District Court attempted conciliation in a case of reciprocal offences against physical integrity involving AT with MF who are husband and wife, in Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 25 September 2016, at approximately 12 midnight, the defendant was carrying a sack filled with goods from a kiosk and struck the victim once on the shoulder, so the victim took a bottle of bintang beer and struck the defendant on the head and caused a minor injury, swelling and bruising to the defendant's head. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.



The public prosecutor alleged that the defendant violated Article 151 of the Penal Code on reciprocal offences against physical integrity.

### **Presentation of evidence**

During this attempted reconciliation, the parties wanted to resolve the matter amicably because after this incident they immediately reconciled with one another. Therefore the parties requested for the court to withdraw their complaint.

The prosecution and defence agreed with the request of the two parties to withdraw the complaint and requested for the court to validate the amicable agreement.

### **Decision**

Based on an agreement between the two parties and their request to withdraw the complaint, the court validated the request to withdraw the complaint.

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

Case No.	: 0117/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: Prison sentence of 1 year, suspended for 1 year 6 months

On 18 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant PT who allegedly committed the offence against his wife in Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 20 June 2016, at approximately 9am, the defendant punched the victim once on her cheek just below her right eye, causing the victim to suffer pain. A medical report was included in the case file from the Oecusse Pradet and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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, was a first time offender and after the incident immediately reconciled with the victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendation the public prosecutor stated that the defendant had been found guilty of committing the crime against the victim and cases of domestic violence are widespread in Timor-Leste, especially in the Oecusse region. For this reason he requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment and was a first time offender. Therefore he 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 concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year and 6 months.

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

Case No.	: 0031/16.OEPMK
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: 6 months imprisonment, suspended for 1 year.

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

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 9 August 2016, at approximately 2am, the defendant choked the victim causing pain to her throat. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against

Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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, was a first time offender and after the incident immediately reconciled with victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendation the public prosecutor stated that the defendant had been found guilty of committing the crime against the victim and cases of domestic violence are widespread in Timor-Leste, especially in the Oecusse region. For this reason he requested for the court to impose a apply prison sentence of 6 months, suspended for 1 year.

The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. Therefore he 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 concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year and ordered the defendant to pay court costs of US\$ 50.

## **9. Driving without a license**

Case No.	: 0025/16.OESTR
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: Fine of US\$ 90.00

On 18 January 2017 the Oecusse District Court announced its sentence for the crime of driving without a license involving the defendant Fagundu Mauno against the State in Costa Village, Pante-Makassar Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 25 July 2015, at approximately 10 am, the defendant was driving a revo motorcycle and collided with the victim Rozildo Adriano Barreto, causing the victim to suffer a sprained ankle. Therefore the police conducted a

search and found out that the defendant had a licence but it had expired on 6 October 2012.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on the crime of driving without a license which carries a maximum sentence of 2 years or a fine.

### **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, was a first time offender. The defendant is employed by STAE and earns US\$ 222 per month. The defendant also stated that the crime of colliding with the victim had been resolved in accordance with Timorese tradition.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendation the public prosecutor stated that the defendant was guilty of driving without a licence. The prosecutor stated that every month a high number of such cases were registered in Oecusse. Therefore he requested for the court to impose a fine against the defendant pursuant to Article 207 of the Penal Code.

On the other hand the defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, and therefore he requested for the court to impose an adequate penalty against the defendant.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant to a fine of US\$ 90.00 to be paid in daily instalments of US\$ 1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine, and also ordered the defendant to pay court costs of US\$ 10.00.

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

Case No.	: 0009/16.OEBCN
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: Punishment of 1 year in prison, suspended for 1 year

On 19 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JO who allegedly committed the offence against his wife in Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 22 May 2016, at approximately 6pm, the defendant threw a cup and struck the victim on the right side of her head, causing the victim to suffer a graze to her head. A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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 he was a first time offender and after the incident he immediately reconciled with the victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendation the public prosecutor stated that the defendant was guilty of committing the crimes against his wife and the defendant's actions of throwing a cup could cause serious injury. For this reason he requested for the court to impose a apply prison sentence of 1 year, suspended for 1 year.

The public defender stated that the defendant confessed the facts set out in the indictment and was a first time offender. Therefore he 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 concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

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

Case No. : 0011/16.OEBCN  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Ricardo Leite Godinho  
Public Defender : Calisto Tout  
Type of Penalty : Penalty of admonishment

On 19 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NB who allegedly committed the offence against his two daughters GB and JB in Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 30 May 2016, at approximately 9:30pm, the defendant took a crow bar and struck the victim GB once on the back and struck the victim JB once on the head. These acts caused the two victims to suffer pain to their back and head respectively.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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 he was a first time offender and after the incident he immediately reconciled with both victims.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant was guilty of committing the crime against the two victims and had struck the minors which is a crime in Timor-Leste. Therefore he requested for the court to issue an admonishment against the defendant. In addition the defence also agreed with the charges of the public prosecutor.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and convicted the defendant and issued an admonishment against the defendant.

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

Case No. : 0020/16.OEPMK  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Mateus Nessi  
Public Defender : Afonso Gomes Fatima  
Type of Penalty : Withdrawal of complaint

On 23 January 2017 the Oecusse District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Elias Cofitalan who allegedly committed the offence against the victim Pedru Neno. This case allegedly occurred in Lifau Village, Pante-Makassar Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 17 October 2016, at approximately 2pm, the defendant punched the victim once in the forehead and kicked the victim once on his right thigh, which caused the victim to suffer pain to this forehead and thigh. The incident occurred in relation to watering a rice field.

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 attempted conciliation the victim requested to withdraw the complaint because the defendant had apologised to the victim. In addition the victim also requested for the defendant to not commit such crimes against the victim in the future.

The prosecution and defence agreed with the request of the two parties to withdraw the complaint and requested for the court to validate the amicable agreement.

### **Decision**

Based on an agreement between the two parties and their request to withdraw the complaint, the court validated the request to withdraw the complaint.

## **13. Driving without a license**

Case No. : 0016/16.OESTR  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Mateus Nessi  
Public Defender : Marcelino Marques Coro  
Type of Penalty : Fine of US\$ 90

On 23 January 2017 the Oecusse District Court announced its decision for the crime of driving without a licence involving the defendant Jose Luis Caunan who allegedly

committed the crime against the State in Cunha Village, Pante-Makassar Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 13 August 2016, at approximately 8pm, the defendant was riding a revo motorcycle on the public road without number plates. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on the crime of driving without a license which carries a maximum sentence of 2 years or a fine.

### **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, was a first time offender and he is a public servant who earns US\$166 per month.

### **Final recommendations**

In his final recommendation, the public prosecutor stated that there are a high number of such cases registered in Oecusse. Therefore he requested for the court to impose a fine against the defendant pursuant to Article 207 of the Penal Code.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant to a fine of US\$ 90 to be paid in daily instalments of US\$ 1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine, and also ordered the defendant to pay court costs of US\$ 30.00.

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

Case No. : 0162/16.OESIC  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Mateus Nessi  
Public Defender : Marcelino Marques Coro  
Type of decision : 1 year in prison, suspended for 2 years, against the defendant JBCS and 1 year in prison, suspended for 1 year against the defendant FCR.

On 24 January 2017 the Oecusse District Court announced its sentence in a case of property damage involving the defendants Jose Braz da Costa Soares and Francisca do Rosario da Costa who allegedly committed the offence against the victim Anastacio



Ximenes. This case allegedly occurred in Costa Village, Pante-Makassar Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 1 September 2016, at approximately 10:30am, the defendant FRC told the defendant JBCS (the son of the defendant FRC) to cut down a mango tree on the victim's land. The victim asked why the tree had to be cut down, and the defendant answered "*You can complain to the police and the court, and I'm not scared*". This problem occurred because when the victim surveyed the land, the defendants were not informed.

The public prosecutor alleged that the defendant violated Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine.

Previously the court attempted conciliation between the parties but was unsuccessful because the victim did not want to withdraw the complaint because the defendants repeated their actions on multiple occasions and the victim wanted the truth to be established.

### **Presentation of evidence**

An inspection of the scene of the alleged crime indicated that the mango tree belonged to the victim and this was confirmed by the defendants, as well as corn that was planted and maintained every year by the victim, as confirmed by the defendants. Meanwhile the defendant FRC stated that the land on which the victim was residing belonged to the defendants because the defendants had a power of attorney and full certification even though the victim had been living on the land since 1960.

### **Final recommendations**

In his final recommendations the public prosecutor requested for the court to convict the defendants pursuant to Article 258 of the Penal Code because the facts presented by the victim were found to be true. During the inspection it was confirmed that the defendant told her son to cut the mango tree which resulted in no fruit this year. The documents presented by the defendant to the Court were not valid, because the signatures on the statements did not come from the elected village chief.

The defence requested for the court to impose a fair penalty against the defendants for their crime, because they confessed to the court that the defendant FRC told her son, the defendant JBCS, to cut the mango tree. The defence stated that this problem occurred because defendants and the victim had not resolved the matter previously.

### **Decision**

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

---

\* Please refer to JSMP Press Release entitled: "Defendant rejects the decision of the judge: she needs to be advised by her legal representative to respect the authority of the court" which was published on 31 January 2017

---

and can be viewed at: [http://jsmp.tl/wp-content/uploads/2017/01/PrArguiduREJEITADesizaunJuisOECUSSE\\_Tetum.pdf](http://jsmp.tl/wp-content/uploads/2017/01/PrArguiduREJEITADesizaunJuisOECUSSE_Tetum.pdf)



## 15. Simple offences against physical integrity characterized as domestic violence

Case No. : 0171/16.OESIC  
Composition of the court : Single Judge  
Judge : João Ribeiro  
Public Prosecutor : Ricardo Leite Godinho  
Public Defender : Marcelino Marques Coro  
Type of Penalty : 1 year in prison, suspended for 1 year

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

### Indictment of the Public Prosecution Service

The public prosecutor alleged that on 16 September 2016, at approximately 7pm, the defendant used a piece of wood to strike the victim twice on her left arm, slapped the victim twice on her right cheek and slapped the defendant twice on her left cheek. A medical report was included in the case file from the Oecusse Pradet and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of 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, was a first time offender and after the incident immediately reconciled with victim.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

## **Final recommendations**

In his final recommendations the public prosecutor stated that the defendant was guilty of committing the crime against the victim. For this reason he requested for the court to impose a apply prison sentence of 6 months, suspended for 1 year.

The public defender stated that the defendant regretted his behaviour and was a first time offender. Therefore he 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 concluded the matter and sentenced the defendant to 1 month in prison, suspended for 1 year.

## **16. Crime of larceny and property damage**

Case No.	: 0037/16.OEPMK
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Mateus Nessi
Public Defender	: Afonso Gomes Fatima
Type of Penalty	: Defendant AB was acquitted and the defendant FT was ordered to pay a fine of US\$60

On 31 January 2017 the Oecusse District Court announced its decision in a case of larceny and property damage involving the defendants Francisco Timo and Antonio Bacun who allegedly committed the crime against the victim Custodio Nessi. This case allegedly occurred in Taiboco Village, Pante-Makassar Sub-District, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 30 August 2016, at approximately 9am, the defendant FT told the defendant AB to grab a machete and climb a coconut tree on the victim's plantation to cut 24 branches from 5 coconut trees and 4 branches from a sago tree and the defendant AB took 5 young coconuts. The incident occurred because the defendants cut down the coconut branches without the knowledge of the victim.

The public prosecutor alleged that the defendant violated Article 251 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine as well as Article 258 of the Penal Code on property damage that carries a maximum penalty of three years or a fine.

### **Presentation of evidence**

During the trial the court attempted conciliation, and the victim requested for the complaint to be withdrawn but the defendants would have to pay the victim US\$75, however the defendants did not agree and the process moved forward.

During the trial the defendants confessed all of the facts set out in the indictment, the defendants also stated that they regretted their actions, and were first time offenders. The victim maintained the facts set out in the indictment.

Because the defendant confessed all of the facts set out in the indictment, the Public Prosecution Service requested for the court to disregard the victim's statement that was given previously to the Public Prosecution Service.

### **Final recommendations**

In his final recommendations the public prosecutor stated that defendants confessed all of the facts and regretted their behaviour. However, the public prosecutor stated that the charges were not necessary and there was no basis to convict the defendants because they only cut the branches of the coconut trees and coconuts continued to grow. Therefore the public prosecutor requested for the court to acquit the defendants from the charges of property damage, however in relation to the crime of larceny he requested for the court to order the defendants to pay a fine.

In addition, the defence also stated that the defendants confessed all of the facts set out in the indictment. The defence also stated that the alleged property damage did not harm the victim, and therefore he requested for the court to acquit the defendants. In relation to the crime of larceny he requested for the court to carefully consider the matter and uphold justice reflecting the wrongdoing of the two defendants.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and ordered the defendants to pay a fine of US\$60, to be paid in instalments of 0.50 cents per day for 120 days. The court acquitted the defendant AB.

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

Case No.	: 0183/16.OESIC
Composition of the court	: Single Judge
Judge	: João Ribeiro
Public Prosecutor	: Ricardo Leite Godinho
Public Defender	: Calisto Tout
Type of Penalty	: Acquitted

On 31 January 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant ADdD who allegedly committed the offence against his father in law in Costa Village, Pante-Makasar, Oecusse District.

### **Indictment of the Public Prosecution Service**

The public prosecutor alleged that on 3 October 2016, at approximately 11pm, the defendant punched the victim once on the left side of his forehead, and knocked the victim to the ground. Then the defendant grabbed the victim's left leg and pushed the victim in the back into a wall which caused the victim to suffer a minor injury to his back and swelling to his forehead. This case occurred because the defendant had an argument with his wife about food and the victim said "*if you are going to act like dogs, go outside.*" A medical report was included in the case file from the Oecusse Referral Hospital and photos from the Oecusse District Police VPU.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity together with Article 2 of the Law Against Domestic Violence on the concept of domestic violence, Article 3 (a) of the Law Against Domestic Violence on family relationships, Article 35 (b) of the Law Against Domestic Violence on types of domestic violence.

### **Presentation of evidence**

During the trial the defendant stated that he punched the victim once in the forehead, and this was because the victim was holding a piece of wood and was going to strike the defendant. The defendant also stated that he regretted his actions and was a first time offender.

The victim stated that the defendant punched him four times in the forehead and knocked him to the ground and then the defendant punched him once in the face and dragged the victim outside. This assault caused the victim to suffer an injury to his back and swelling to his face.

The witness Angelina Falo (the defendant's wife) testified that when she saw the victim and the Defendant standing up to one another about to fight, the witness grabbed her young child and dragged her eldest daughter to the back of the house because she was afraid that if they fought they could end up stomping on the children and the witness. Therefore the witness did not see the incident.

### **Final recommendations**

In his final recommendations the public prosecutor requested for the court to acquit the defendant from the charges because the public prosecutor believed that the defendant was acting in legitimate self-defence pursuant to Article 44 of the Penal Code to avoid an assault from the victim who at that moment was holding a piece of wood. In addition the defence also agreed with the charges of the public prosecutor for the court to acquit the defendant.

### **Decision**

After evaluating the facts produced during the trial, the court concluded this matter and acquitted the defendant.

This case summary was prepared with the generous support of the American people through the United States Agency for International Development (USAID) based on Cooperation Agreement No. AID-486-A-13-00007 for the '*Mai Munisípiu*' program in Timor-Leste, which is being led by an International Counterpart Agency and its partners. JSMP is fully responsible for the contents and views stated in this report and they do not necessarily reflect the views of USAID or the Government of the United States of America.

For more information, please contact:

Luis de Oliveira Sampaio  
Executive Director of JSMP  
Email: [luis@jsmp.tl](mailto:luis@jsmp.tl)