



**Case Summary**  
**Baucau District Court**  
**May 2017**

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

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

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

**1. Total cases monitored by JSMP: 46**

Article	Type of case	Number of cases
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence	14
Article 145 of the PC	Simple offences against physical integrity	6
Article 155 of the PC	Mistreatment of a minor	2
Article 154 of the PC	Mistreatment of a spouse	6
Article 138 of the PC	Homicide	2
Article 157 of the PC	Threats	1
Articles 145 & 258 (PC)	Simple offences against physical integrity and property damage	1

Article 254 of the PC	Robbery	1
Article 259 of the PC	Aggravated property damage	2
Article 243 of the PC	Obstructing public authority	1
Article 258 of the PC	Property damage	1
Article 177 of the PC	Sexual abuse of a minor	1
Article 167 of the PC	Torture or other cruel, degrading or inhuman treatment	1
Article 263 of the PC	Attempted arson	1
Article 308 of the PC	Circulation of counterfeit currency	1
Articles 259 & 263 (PC)	Aggravated property damage and arson	1
Article 172 of the PC	Rape	1
Article 146 of the PC	Serious offences against physical integrity	1
Article 225 of the PC	Failure to meet obligation to provide food assistance	1
Article 140 of the PC	Manslaughter	1
<b>Total</b>		<b>46</b>

## 2. Total decisions monitored by JSMP: 31

Type of decision	Number of cases
Prison sentence (Article 66 of the PC)	1
Suspension of execution of a prison sentence (Article 68 of the PC)	14
Fine (Article 67 of the PC)	8

Fine (Article 67 of the PC) and compensation to the victim	1
Withdrawal of complaint	5
Acquitted	2
<b>Total</b>	<b>31</b>

### 3. Total ongoing cases based on JSMP monitoring: 15

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

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

Case Number : 0245/14.PDBAU  
Composition of the Court : Single Judge  
Judge : Jose Quintão  
Prosecutor : Domingos Goveia  
Public Defender : Jose Guterres  
Type of Penalty : 7 months in prison, suspended for 1 year

On 2 May 2017 the Baucau District Court, through the mobile court in Viqueque District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant who allegedly committed the offence against his wife in Viqueque District.

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

The prosecutor alleged that on 30 March 2014 the defendant tore the victim's clothes, the victim tried to grab the clothes so the defendant punched the victim 9 times in the head, 3 times in the stomach and took a knife and threatened to kill the victim. As a result of these acts the victim had to stay 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 Articles 157 on making threats and Articles 2, 3 and 35 of the Law Against Domestic Violence.

#### **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, however the victim did not want to, so the court proceeded to hear the testimony of the defendant.

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that regretted his actions and recognised that punching and threatening another person is bad. The defendant stated that he was a first time offender and promised not to commit any other against the victim or other person. Also, the defendant stated that after the incident the defendant and the victim immediately reconciled but after one week when the defendant went to work the victim ran away from home to go to her parents in Same. The defendant rang the victim and the victim said that the defendant should not go because she had married another man. The defendant also stated that the victim was pregnant when she fled to her parents.

When the Court sought confirmation with the victim, she confirmed the facts in the indictment and the victim also stated that this assault caused the victim to suffer pain and the threats made her feel afraid. The victim stated that the defendant no longer wanted to live with the victim, and therefore the victim fled to her parents.

### **Final recommendations**

The prosecutor believed that the defendant had been proven guilty of committing the crime against the victim, and therefore the prosecutor requested for the court to impose a prison sentence of 3 months for the crime of making threats and for the crime of simple offences against physical integrity he requested for the court to impose a prison sentence of six months, thus a total prison sentence of 9 months.

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**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor. The court also proved that the assault caused the victim to suffer pain, and the threats made the victim afraid. Based on the circumstances and the need for deterrence, the court concluded the matter and found the defendant guilty of committing the crime of simple offences against physical integrity and imposed a prison sentence of six months and for the crime of threats imposed a prison sentence of 2 months. The Court accumulated these two crimes, and imposed a prison sentence of 7 months, suspended for 1 year.

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

Case Number	: 0013/16.VQWCB
Composition of the Court	: Single Judge
Judge	: Antonio Fonseca

Prosecutor : Benvinda do Rosario  
Public Defender : Jose Guterres  
Type of Penalty : Fine

On 2 May 2017 the Baucau District Court, through the mobile court in Viqueque District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VVF who allegedly committed the offence against his wife in Viqueque District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 10 October 2016 the victim told the defendant to go and look for a traditional healer to examine their child who was sick. The victim kept demanding for the defendant to call the traditional healer, so the defendant slapped the victim once on the ear and kicked the victim once on her side.

The prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, and 35 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts, regretted his actions and promised not to repeat such acts in the future. The defendant also stated that he was a first time offender and after the incident he immediately reconciled with the victim. In addition, the defendant stated that he works as police officer with a monthly salary of US \$200. In addition the victim confirmed and maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of committing the crimes as set out in the indictment and believed that the defendant has sufficient economic means, and therefore he requested for the court to impose a fine against the defendant.

In addition, the public defender requested for the court to impose a reasonable fine against the defendant after considering the mitigating circumstances such as his regret and the fact he has reconciled with the victim and is the breadwinner of the family.

### **Decision**

The court found all of the facts proven because the defendant confessed, and the victim confirmed this fact. Therefore the court found the defendant guilty and ordered him to pay a fine of US\$ 45 to be paid in daily instalments of US\$ 1.00 for 45 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine, and also ordered him to pay court costs of US\$10.

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

Case Number : 0011/15.VQWCB  
Composition of the Court : Single Judge  
Judge : Jose Quintão  
Prosecutor : Domingos Goveia  
Public Defender : Jose Caitano Guterres  
Type of Penalty : 1 year in prison, suspended for 1 year

On 3 May 2017 the Baucau District Court, through the district court in Viqueque conducted a hearing to attempt conciliation in a case involving the defendant LdS and the victim AMA in Viqueque District.

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

The prosecutor alleged that on the morning of 2 October 2017 the victim saw a buffalo that had gotten into the victim's plantation, and suddenly the defendant appeared and swore at the victim and slashed the victim's right hand which caused an injury to the victim's hand. The defendant then took a cassava stalk and struck the victim above the left eye. A medical report from the hospital was included in the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity.

#### **Presentation of evidence**

During the trial the defendant confessed the facts, regretted his actions, was a first time offender and promised not to reoffend in the future. The defendant also stated that he has not yet reconciled with the victim. In addition the victim confirmed and maintained the facts set out in the indictment, and therefore the court did not require testimony from the witness.

#### **Final recommendations**

The public prosecutor requested for the court to sentence the defendant to 1 month in prison, suspended for 1 year, 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 public defender requested for the court to apply a fair penalty on the defendant considering the mitigating circumstances such as 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 and sentenced the victim to 1 year in prison, suspended for one year.

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

Case Number	: 0019/16.VQOSU
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Domingos Goveia
Public Defender	: Sidonio M. Sarmiento
Type of Penalty	: 1 year in prison, suspended for 1 year

On 3 May 2017 the Viqueque District Court, through the mobile court in Viqueque District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EdS who allegedly committed the offence against his wife in Viqueque District.

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

The public prosecutor alleged that on the early morning of 21 June 2016 the defendant took a shovel and struck the victim once on the forehead and the victim fell to the ground, and then the defendant kicked the victim once on the body.

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

#### **Presentation of evidence**

During the trial the defendant admitted all of the facts, regretted his actions, and stated that he was a first time offender. Then the defendant stated that after the incident the victim was treated in hospital and went back home and immediately reconciled.

The court did not require testimony from witnesses, because the defendant fully admitted the facts in the indictment.

#### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of the crime set out in the indictment, and therefore he requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

The public defender requested for the court to apply a lenient sentence against the defendant considering the mitigating circumstances such as the fact that the defendant fully confessed to the charges, regretted his actions, was a first time offender and is responsible for his children.

#### **Decision**

The court found that the defendant committed the crime of simple offences against physical integrity according to the facts set out in the indictment. Based on all of

the evidence and the relevant circumstances the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

## **5. Crime of Manslaughter**

Case No.	: 0025/16.VQSTR
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Public Prosecutor	: Luis Hernani Rangel
Public Defender	: Grigorio de Lima
Type of Penalty	: 3 months in prison, suspended for 1 year

On 3 May 2017 the Baucau District Court through the mobile court in Viqueque District, conducted a hearing to announce its decision in a case of manslaughter involving the defendant AF (mechanic) and the defendant VS (driver) who allegedly committed the offence against the victim AF, in Beasu, Viqueque District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 12 September 2016, at 7pm, the defendants VS and AF were returning from Beasu and heading towards Viqueque. On the way the defendant VS became sleepy and asked the defendant AF to drive the car. The defendant AF saw the victim standing on the road so the defendant stopped the car and called out to the victim because they are related and the defendant VS gave a cigarette to the victim and victim walked towards the back of the car. However, the victim was drunk and he fell under the car and the defendants did not see because it was dark. When the defendants drove off they heard the car run over something. So the defendants got out of the car to have a look and they were shocked to see the victim under the car. The defendants took the victim to Viqueque hospital but he could not be saved and he died on the way.

The prosecutor charged the defendants with violating Article 140.1 of the Penal Code on manslaughter carrying a penalty of 1 - 4 years or a fine. The prosecutor charged the defendant VS for violating Article 31 of the Penal Code on instigation.

### **Presentation of evidence**

During the trial the defendants confessed all of the facts in the indictment and stated that they had no intent to kill the defendant. The defendants also stated that they gave money to the family of the victim for the funeral, totalling US\$ 4,715 and promised to look after the victim's 2 children because they are related to the victim.

The witness RdCV who is the spouse of the victim testified that they have reconciled because the defendants did not anticipate the incident. The witness also stated that since the funeral the defendants have given US\$4,715 and promised to look after the two children who are minors.

### **Final recommendations**

The prosecutor stated that the defendants confessed the facts and have reconciled with the victim's family, have provided money and promised to look after the



victim's children. Therefore he requested for the court to make a decision that reflects the crime committed by the defendants.

The public defender also stated that the defendants confessed all of the facts, have reconciled with victim's family and they are related. The defendants also promised that they would look after the victim's children. Therefore he requested for the court to impose a fair penalty against the defendants.

### **Final decision**

The court found the defendants guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the evidence the court concluded the matter and sentenced the defendant AF to 2 years and 3 months in prison, suspended for 3 years, and sentenced the defendant VS to 3 months in prison, suspended for 1 year.

### **6. Failure to meet obligation to provide alimony**

Case Number	: 0042/15.PDBAU
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Public Prosecutor	: Luis Hernani Rangel
Public Defender	: Grigorio de Lima
Type of Penalty	: Withdrawal of complaint

On 3 May 2017 the Baucau District Court, through the district court in Viqueque District, conducted a hearing to attempt conciliation in a case involving the defendant FS and the victim CT in Karaubalo, Viqueque District.

### **Charges of the Prosecutor**

The defendant did not comply with the court's decision to provide alimony to four minors for 2 years between 2015 and 2017.

The public prosecutor alleged that the defendant violated Article 225 of the Penal Code on failure to provide food assistance that carries a maximum penalty of 3 years in prison or a fine.

### **Presentation of evidence**

Before progressing to the presentation of evidence, pursuant to Article 162 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation the victim wanted to withdraw the complaint against the defendant, but on the condition that each month the defendant has to give US\$50 for 4 minors from June 2017 until the children are living independently. The defendant accepted this request but the defendant also has a child with his mistress. The defendant is a police officer and receives a monthly salary of US\$260.

### **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 case and the agreement of the parties, the court endorsed the request and told the defendant to comply with the agreement. If the defendant fails to comply then the victim should inform the prosecutor so the defendant can be processed.

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

Case Number	: 0013/16.VQOSU
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis Hernani Rangel
Public Defender	: Grigorio de Lima
Type of Penalty	: 3 months in prison, suspended for 1 year

On 3 May 2017 the Baucau District Court, through the mobile court in Viqueque District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EdC who allegedly committed the offence against his wife in Viqueque District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 7 August 2015, at 11pm, the defendant told the victim to massage the defendant's head and the victim said that she would massage it tomorrow. The defendant elbowed the victim once in the chest, and then the victim fled to a neighbour's house and stayed the night and in the morning she went to the police to make a complaint.

The 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 35(b) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts, regretted his actions, reconciled with victim and promised not to repeat his actions in the future. In addition the victim confirmed and maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of committing the crime against the victim and therefore in the interest of deterrence the public prosecutor requested for the court to sentence the defendant to 3 months in prison suspended for 1 year.

The public defender requested for the court to impose a fairer penalty against the defendant because the defendant confessed, regretted his actions and cooperated with the Court.

### **Decision**

The court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. For this reason the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

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

Case Number	: 0026/16.VQVQQ
Composition of the Court	: Single Judge
Judge	: Ersilia de Jesus
Public Prosecutor	: Benvinda do Rosario
Public Defender	: Jose Maria C. Guterres
Type of Penalty	: Withdrawal of complaint

On 4 May 2017 the Baucau District Court, through the district court in Viqueque District, conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendant DS and the victim JA Viqueque Sub-District, Viqueque District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 14 November 2016, at 7pm, the victim was holding her child at home and the defendant turned up on a motorcycle and stopped in front of the veranda and verbally abused the victim and grabbed the victim's shirt and jerked her back and forth causing her to suffer a sore chest.

### **Presentation of evidence**

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

During the attempted conciliation the victim wanted to withdraw the complaint against the defendant, but on the condition that the defendant would be willing to apologise to the victim and promise not to repeat such acts in the future. The defendant accepted this condition and thanked the victim for her generosity for withdrawing the complaint against the defendant and the defendant also promised that in the future he will not repeat such acts against the victim and requested for the court to withdraw the complaint.

### **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.

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

Case Number : 0099/14.PDBAU  
Composition of the Court : Single Judge  
Judge : José Gonsalves  
Public Prosecutor : Domingos Barreto  
Public Defender : Jose Maria Caitano Guterres  
Type of Penalty : Fine and compensation to the victim

On 4 May 2017 the Baucau District Court, through the mobile court in Viqueque District, announced its decision in a case of simple offences against physical integrity involving the defendant AA who allegedly committed the offence against EF in Viqueque District.

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

The prosecutor alleged that on 5 December 2014 the defendant took a piece of wood and struck the victim three times on the back and the victim fell to the ground.

The 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 fully confessed the facts set out in the indictment of the Prosecutor. The defendant stated that he regretted his actions and promised that in the future he would not commit any crimes against the victim.

#### **Final recommendations**

The prosecutor stated that the defendant had been found guilty of committing the crime against the victim, so he requested for the court to order the defendant to pay a fine and also pay compensation to the victim. The public defender requested for the court to apply a fairer penalty against the defendant considering the mitigating circumstances such as the defendant confessed, and regretted his actions.

#### **Decision**

The court proved that the defendant committed the crime in accordance with the facts set out in the indictment and the court convicted the defendant and ordered him to pay a fine of US\$ 45 to be paid in daily instalments of 50 cents 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 him to pay court costs of US\$20.

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

Case Number : 0085/16. BCBCV  
Composition of the Court : Single Judge  
Judge : Afonso Carmona  
Prosecutor : Luis H. Rangel da Cruz  
Public Defender : Sidonio M. Sarmiento  
Type of Penalty : Fine

On 5 May 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JPF who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 30 December 2016, at 4.30pm, the defendant took a palm frond and struck the victim once on the thigh and struck the victim once on the back and pulled the victim's hair.

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 in the indictment. The defendant also stated that the defendant asked US\$1.00 to photocopy their child's certificate but victim did not give it, so the defendant struck the victim. The defendant stated that he was a first time offender, regretted his behaviour and has reconciled with victim and since the incident the defendant has not beaten the victim. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The public prosecutor requested for the court to order the defendant to pay a fine because the public prosecutor considered that the defendant had been found guilty of committing the crime against the victim. The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender, and has reconciled with the victim. Therefore he requested for the court to impose a lenient penalty against the defendant.

### **Decision**

The court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor. Based on this evidence, the court convicted the defendant and imposed a fine of US\$ 60 to be paid in daily instalments of 50 cents for 120 days. The court also imposed an alternative penalty

of 80 days in prison if the defendant does not pay this fine, and also ordered him to pay court costs of US\$10.

## **11. Mistreatment of a minor**

Case Number	: 0054/16. BCSIC
Composition of the Court	: Panel
Judges	: Antonio Fonseca Hugo da Cruz Pui Jose Quintão
Prosecutor	: Alfonso Lopes
Public Defender	: Sidonio M. Sarmiento
Type of Penalty	: 3 years in prison, suspended for 3 years

On 5 May 2017 the Baucau District Court conducted a hearing to announce its decision in a case of maltreatment against a minor involving the defendant SPMG who allegedly committed the offence against his daughter in Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 11 July 2016, at 9am, the victim was doing homework and watching television and the defendant angrily called out to the victim to ask why the victim's younger sibling was crying and the victim said she didn't know. So the defendant took a piece of wood and struck the victim many times on the back legs. Then at 5pm when the victim returned from school she continued doing her homework and went to play with the neighbours and when she got home the defendant asked if all of her homework was finished and the victim said it was done but the defendant did not believe her and took a piece of wood and struck the victim on the body many times and the victim suffered pain and swelling.

Then on 15 July 2015 the victim went to school and told her cousin about the incidents and told her uncle to make a complaint at the Baucau Police Station.

The public prosecutor alleged that the defendant violated Article 155 of the Penal Code on the mistreatment of a minor that carries a prison sentence of 2 years to 6 years prison as well as Articles 2, 3 and 35 and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts about his actions on 11 July 2016 at 9am. The defendant stated that he was angry and struck the victim on the leg once with a piece of rope because the victim hit her younger sibling and the defendant denied the other facts. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of committing the crime against the victim and therefore, in the interest of deterrence, the public prosecutor requested for the court to send the defendant to prison, however to impose a suspended sentence.

The public defender requested for the Court to also consider the defendant's admissions during the examination of evidence, and the circumstances such as he regretted his actions, was a first time offender, and has reconciled with the victim. Therefore he requested for the court to impose a lenient penalty 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. Based on the aforementioned evidence, the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

### **12. Homicide**

Case Number	: 0024/16. BCBCV
Composition of the Court	: Panel
Judge	: Jose Quintão Antonio Fonseca Hugo da Cruz Pui
Prosecutor	: Alfonso Lopes
Public Defender	: Antonio Fernandes Mujariah (MAG Lawyer)
Type of Penalty	: Prison sentence against the defendants

On 9 May 2017 the Baucau District Court conducted a trial to announce its ruling in a case of homicide involving the defendants AdCF, FdRX, DXF and MdCX and the victim CS, in Baucau Vila Sub-District, Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 2 May 2016, at 6pm, the victim and the witnesses were travelling on a utility vehicle from Baucau to their home. On the way the defendant FdRX picked up the defendant AdCF on a motorcycle and passed a vehicle carrying the victim and the witnesses. The defendant AdCF got off the motorcycle and stood in the middle of the road and stopped the vehicle and went to the victim and kicked the victim once in the back and then grabbed the victim by his shirt and dragged him off the vehicle and swore at the victim saying "*dickhead, you think you are the tough guy here, do you?*" Then the defendant punched the victim once on the back of the neck and victim said to the defendant "*you are punching me but I didn't have any problem with you.*" The defendant threw the victim on the ground and then the defendant FdRX kicked the victim once on the right ear.

### **Presentation of evidence**

During the trial the defendant AdCF confessed that the defendant FdRX picked up the defendant AdCF and followed the vehicle and then the defendant stopped the motorcycle in the middle of the road and stopped the vehicle. When he saw the victim get out from the vehicle the defendant punched the victim once in the stomach and kicked the victim once on the back, and didn't know what the other defendants did.

The defendant FdRX stated that at that time he was going to pick up his father with a motorcycle and on the road the defendant AdCF stopped and got on the motorcycle and travelled to the Waimori-mata area and the defendant AdCF got off the motorcycle in the middle of the road and stopped the vehicle.

The defendant DXF stated that prior to the incident the defendant was together with the other defendants drinking palm wine in Loidu. After they finished drinking the defendants AdCF and FdCX go on a motorcycle and went to Waimori-mata and then these defendants and the defendant MdCX followed on a motorcycle. When they arrived at the scene they saw a lot of people, and so the defendants stopped to have a look and the defendant AdCF told the defendants that the victim had grabbed AdCF around the throat, so the defendant DXF punched the victim once in the stomach.

The defendant MdCX stated that in relation to this incident the defendants had consumed 2 jerry cans of palm wine in Loidua. After drinking the defendants AdCF and FdRC got on a motorcycle and went to Waimori-mata, and not long after the defendants arrived at the scene and saw the defendant AdCF punch the victim once in the stomach.

### **Final recommendations**

The prosecutor stated that based on the evidence presented during the trial, he believed that the defendants had been proven guilty of committing the crime against the victim and the actions of the defendants caused the victim to suffer a problem with his breathing and the victim stopped breathing. Therefore he requested for the court to sentence the defendants with a penalty of less than half of the prescribed penalty.

The public defender for the defendants (AdCF, FdRX and MdCX) stated that based on the examination of evidence, prior to this incident the defendants were drinking palm wine together, but they had no intention of committing a crime against the victim. When they finished drinking the defendants AdCF, FdRX rode the motorcycle to Waimori-mata and told the other defendants that if they wanted to drink more palm wine then they could go to Waimori-mata and there was no intention of committing a crime. Previously the defendant AdCF had a problem with the victim, but not the other defendants. Therefore he requested for the court to acquit the defendants FdRX and MdCX from the charges of the prosecutor and impose a fair penalty against the defendant AdCF.



The lawyer for the defendant DXF also emphasised that the defendant DXF confessed to punching the victim once in the chest, because the defendant AdCF said the victim punch the defendant AdCF. The defendant also stated that he was a first time offender and regretted his actions. Therefore, he requested for the court to apply a suspended sentence against the defendant, and if the court decides otherwise then he recommended 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 AdCF to 11 years in prison, and sentenced the defendant FdRX to 8 years in prison, and sentenced the defendant DXF to 10 years in prison, and acquitted the defendant MdCX.

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

Case Number	: 0082/16. VCBCV
Composition of the Court	: Single Judge
Judge	: Jose Quintão
Prosecutor	: Alfonso Lopes
Public Defender	: Jose M. Guterres
Type of Penalty	: Fine

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

### **Charges of the Prosecutor**

The prosecutor alleged that on 4 December 2016 the defendant was watching television at a neighbour's house and angrily threw the television remote control at the victim, but missed. The defendant then verbally abused the victim and the victim went home and the defendant followed and pulled the victim by the arm, slapped the victim once on the left cheek and punched the victim once above the left eye.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as 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, was a first time offender and has reconciled with victim. Also, the defendant stated that in the future he

would not hit the victim again. The victim maintained the facts in the indictment, and victim also added that they she has reconciled with the defendant.

### **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts in the indictment and these facts were confirmed by the victim. Therefore he requested for the court to impose a fine in accordance with the defendant's actions.

Also, the public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender, and has reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

The court proved that the defendant committed the crime in accordance with the facts set out in the indictment and the court convicted the defendant and ordered him to pay a fine of US\$ 15 to be paid in daily instalments of 50 cents for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

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

Case Number	: 0005/17. BCSIC
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Alfonso Lopes
Public Defender	: Jose M. Guterres
Type of Penalty	: Fine

On 10 May 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EdRP who allegedly committed the offence against his wife (ZBFB), his daughter (GAMF) in Baucau District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 8 February 2017 at 10.30am, the defendant slapped his wife once on her right cheek, pulled the victim's hair and punched the victim once in the head. Therefore the victim GAMF (daughter) tried to separate them, but the defendant twisted the victim's arm and the defendant's finger nails scraped the victim's arm and caused bleeding. The victim ZBFB suffered pain and swelling to her head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine 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 in the indictment. The defendant also stated that after this incident they reconciled the next day. The defendant stated that he has been living with the victim for many years and this was the first time he has assaulted the victims, the defendant regretted his actions and promised that in the future he would commit no other crimes against members of his family.

### **Final recommendations**

The prosecutor maintained the charges because there was evidence that the defendant committed the crime against the victims. Therefore he requested for the court to apply a suspended sentence to prevent the defendant from committing such acts in the future.

The public defender requested for the court to apply an appropriate punishment against the defendant because the defendant has reconciled with the victim, regretted his actions and this was the first time he has committed a crime against the victims.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment of the public prosecutor. The court concluded the matter and ordered the defendant to pay a fine of US\$ 60 to be paid in daily instalments of US\$ 1 for 60 days as well as court costs of US\$ 10. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number	: 0040/16. PDBAU
Composition of the Court	: Panel
Judge	: Antonio Fonseca Hugo da Cruz Pui; Jose Quintão
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Jose Maria Guterres
Type of Penalty	: 2 years in prison, suspended for 2 years

On 10 May 2017 the Baucau District Court conducted a hearing to announce its decision in a case of maltreatment against a spouse involving the defendant MS who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 15 July 2016, at 10pm, the defendant threw a stone at the victim, but missed, and the defendant grabbed an axe to strike the victim but did not manage to strike the victim. Then the defendant grabbed the axe handle and struck the victim twice on her left and right shoulders and kicked the

victim once on her side and caused the victim to suffer pain and swelling. As a result of these acts the victim was treated at the Baucau Referral Hospital.

At approximately 6pm, on an unspecified day in 2009 in Quelicai, the defendant kicked the victim on the back many times and slapped the victim on her right and left cheeks many times which caused pain and swelling.

On an unspecified day in 2003 at approximately 4pm in Quelicai the defendant kicked the victim on the back many times and slapped the victim on her right cheek and left cheeks many times which caused pain and swelling.

On an unspecified day in 2001 at approximately 12pm in Quelicai the defendant kicked the victim on the back many times and slapped the victim on her right cheek and left cheeks many times which caused pain and swelling.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 - 6 years in prison as well as Articles 2, 3 and 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, was a first time offender and has reconciled with victim. The victim maintained the facts set out in the indictment.

#### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of committing the crime against the victim and therefore in the interest of deterrence the public prosecutor requested for the court to sentence the defendant to 2 months in prison suspended for 3 years.

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

#### **Decision**

After evaluating all of the charges against the defendant, the court found the defendant guilty and sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case Number	: 0013/16. BCEVN
Composition of the Court	: Panel
Judges	: Ercilia de Jesus Afonso Carmona José Gonsalves
Prosecutor	: Luis H. Rangel da Cruz

Public Defender : Antonio Fernandes  
Type of Penalty : 2 years in prison, suspended for 2 years

On 11 May 2017 the Baucau District Court conducted a hearing to announce its decision in a case of maltreatment against a spouse involving the defendant GFdR who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 15 March 2016, at 7.30pm, the defendant grabbed the victim by the throat and threw the victim on the ground, kicked the victim twice under the right armpit, kicked the victim twice on the thigh and the victim could not walk properly, and neighbours carried the victim to the Venilale Health Centre.

In 2003, at 12.00pm, the defendant slapped the victim once on the right and left cheeks. While they were living together the defendant always beat the victim. In 2002, at 9am, the defendant took a medium sized piece of wood and struck the victim once on her left side. On an unspecified date some time in 2001, at 7am, the defendant kicked the victim once on the back. While they were living together the defendant always beat the victim.

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

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment. The defendant also declared that he has reconciled with the victim, regretted his actions and was a first time offender. In addition, the victim maintained the charges set out in the indictment.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the examination of evidence during the trial. For this reason he requested for the court to impose a prison sentence of 2 years, suspended for 3 years, and court costs of US\$ 20.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed, has reconciled with the victim, and regretted his actions.

### **Decision**

The court found the defendants guilty of committing the crime against the victim based on the facts set out in the indictment. Based on the aforementioned facts, the court sentenced the defendant to 2 years in prison, suspended for 2 years, and court costs of US\$20.

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

Case Number : 0017/16. BCBCV  
Composition of the Court : Panel  
Judges : Dra. Ercilia de Jesus  
: Afonso Carmona  
: José Gonsalves  
Prosecutor : Luis H. Rangel da Cruz  
Public Defender : Jose Maria Guterres  
Type of Penalty : 2 years in prison, suspended for 2 years

On 11 May 2017 the Baucau District Court conducted a hearing to announce its decision in a case of maltreatment against a spouse involving the defendant DdSC who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 7 July 2016, at 11.30pm, the defendant punched the victim once in the stomach and caused the victim to suffer pain and swelling to the stomach. On 4 July 2016 at 11.30pm the defendant punched the victim once in the chest causing the victim to suffer pain and swelling.

Previously, on 1 April 2016, at 6am, the defendant kicked the victim twice in the stomach and caused the victim to fall to the ground. While they were living together the defendant always beat the victim.

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

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment. The defendant also declared that he has reconciled with the victim, regretted his actions and was a first time offender. In addition, the victim maintained the charges and facts set out in the indictment.

### **Final recommendations**

The prosecutor stated that the defendant had been found guilty of committing the crime against the victim and this was also confirmed by the victim. Therefore to deter the defendant from committing any further assaults against the victim in the future, he requested for the court to impose a prison sentence of 2 years, suspended for 3 years.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed, has reconciled with the victim, regretted his actions and is a first time offender.

## **Decision**

After evaluating the facts during the trial, the court found the defendant guilty of committing the crime as set out in the indictment of the public prosecutor and sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case Number	: 0009/16. MNLLA
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis Hernanio Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: Fine

On 15 May 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AX who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 7 September 2016, at 6pm, the defendant kicked the victim once on left side of her back, punched the victim once in the head and punched the victim once on the left shoulder and punched the victim once on the back of the neck. As a result of these acts the victim was treated at the Laleia Health Centre.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, 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, regretted his actions and declared that he was a first time offender. Four days after the incident the defendant and his family went searching for the victim to immediately resolve the problem in accordance with East Timorese custom and until now the defendant has not struck the victim again. In addition, the victim maintained the charges and the facts set out in the indictment.

### **Final recommendations**

In his final recommendations the prosecutor stated that the defendant had been found guilty of committing the crime against the victim. Therefore he requested for the Court to impose a suspended sentence against the defendant and ordered the defendant to pay court costs.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. The defendant also used his own initiative to go with his family to try and resolve this problem. 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 ordered the defendant to pay a fine of US\$ 15 to be paid in daily instalments of 50 cents for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine, as well as court costs of US\$10.

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

Case Number	: 0009/16. MNLLA
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis Hernanio Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: Fine

On 16 May 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MMS who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 27 August 2016, at 11.00am, the defendant punched the victim twice on her left side.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, 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, declared that he was a first time offender, regretted his actions, and has reconciled with victim. Also the victim confirmed and maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of committing the crime against the victim and therefore to prevent the defendant from reoffending in the future, the public prosecutor requested for the court to impose a fine on the



defendant based on the economic circumstances of the defendant, and also order him to pay court costs.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions 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 produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the proven facts, the court convicted the defendant and imposed a fine of US\$ 15 to be paid in daily instalments of 50 cents for 30 days, as well as court costs of US\$ 10. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

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

Case Number	: 0035/16. MNMNT
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis Hernanio Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: Fine of US\$ 15.00

On 16 May 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RS who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 July 2016, at 8pm, the defendant slapped the victim once on the forehead and slapped the victim once on the back of her neck and twisted her arm which caused pain and suffering.

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 exercised his right to remain silent, while the victim maintained the facts in the indictment. The victim also stated that the victim and the defendant are now separated.

### **Final recommendations**

The prosecutor stated that even though the defendant chose to remain silent, the victim maintained the facts set out in the indictment. For this reason he requested for the court to impose a impose prison sentence of 3 months, suspended for 1 year.

The public defender argued that during the trial the defendant chose to remain silent. Even though the victim maintained all of the facts set out in the indictment, the public defender requested for the court to apply a fair penalty against the defendant.

### **Decision**

The court concluded this matter and ordered the defendant to pay a fine of US\$ 15 to be paid in daily instalments of 50 cents for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendants do not pay this fine.

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

Case Number	: 0034/16. MNLCL
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis Hernanio Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: Fine

On 16 May 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant IS who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 20 December 2016, at 20.30pm, the defendant kicked the victim once on the thigh and the victim fell onto the sofa. The defendant also mistreated and threatened the victim by saying "*I will beat you to death because I paid your dowry.*" The defendant slapped the victim four times on her right and left cheeks and once on the back of the victim's neck.

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, and also stated that he married the victim in 1983. The defendant was a first time offender, regretted his actions, and promised not to beat the victim again in the

future. The victim maintained the facts in the indictment, and also stated that after the incident the victim went to live at her sister's house because she was embarrassed.

### **Final recommendations**

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. Based on the defendant's confession and confirmation of the victim, the prosecutor requested for the court to impose a penalty reflecting the defendant's wrongdoing.

The public defender requested for the court to apply an appropriate punishment against the defendant regretted his actions and promised not to reoffend against the victim in the future.

### **Decision**

The court found the defendant guilty of committing the crime in accordance with the facts set out in the indictment of the public prosecutor and the court ordered him to pay a fine of US\$ 60 to be paid in daily instalments of US\$ 1 for 60 days, as well as court costs of US\$ 10. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number	: 0022/17. MNMNT
Composition of the Court	: Single Judge
Judge	: Ercilia de Jesus
Prosecutor	: Alfonso Lopes
Public Defender	: Jose M. Guterres
Type of Penalty	: Validating withdrawal of complaint

On 19 May 2017 the Baucau District Court, through the district court in Manatuto District, conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendant FdC and the victim CS Manatuto Sub-District, Manatuto District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 12 March 2017, at 16.24pm, the victim who was driving an ambulance belonging to the Manatuto Health Centre, was transporting a patient to the Guido Valadares National Hospital in Dili. On the way there was a large group of people taking a body to the Fretilín Headquarters in Dili, and the victim turned on his emergency lights to pass. When he arrived in front of the defendant's kiosk the defendant was standing in the middle of the road aiming to stop the ambulance and the victim got out of the vehicle and the defendant grabbed the victim's shirt and pushed the victim backwards three times and the defendant's fingernails scraped the victim on the chest and caused bleeding.

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 because they wanted to have good relations in the future. The defendant also agreed and apologised to the victim.

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.

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

Case Number	: 0391/13. PDBAU
Composition of the Court	: Single Judge
Judge	: José Gonsalves
Prosecutor	: Alfonso Lopes
Public Defender	: Jose M. Guterres
Type of Penalty	: 3 months in prison, suspended for 1 year

On 19 May 2017 the Baucau District Court, through the mobile court in Manatuto District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CH who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 26 August 2016, at 10pm, the defendant scratched the victim's face and neck, which caused an injury and pain.

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 in the indictment and stated that after the incident they resolve the problem in accordance with East Timorese

culture. The defendant also stated that he was a first time offender and regretted his actions. In addition, the victim maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor maintained the charges because there was evidence that the defendant committed the crime against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed all of the facts in the indictment, regretted his actions, was a first time offender and has reconciled with the victim.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

## **24. Crime of making threats**

Case Number	: 0034/16. MNMNT
Composition of the Court	: Single Judge
Judge	: José Gonsalves
Prosecutor	: Alfonso Lopes
Public Defender	: Jose M. Guterres
Type of Penalty	: Acquitted

On 19 May 2017 the Baucau District Court, through the district court in Manatuto District, conducted a hearing to attempt conciliation in a case of making threats involving the defendant AdS and the victim JHdS in Manatuto Sub-District, Manatuto District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 21 July 2016, at 08.00am, the victim was using a car to collect iron to be dropped off at the site of a housing construction, but the defendant blocked the way and threatened the driver to stop the vehicle at that location.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of one year in prison or a fine.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that the land where the victim was building the house had been purchased by the defendant from the victim's older brother for the price of US\$400. In addition, the victim maintained the facts in the indictment.

### **Final recommendations**

The prosecutor stated that the defendant's behaviour had fulfilled the requirements for the crime of making threats, therefore he requested for the court to impose a fair penalty against the defendant.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions 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 produced during the trial, the court concluded this matter and acquitted the defendant.

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

Case Number	: 0018/16. MNLLA
Composition of the Court	: Panel
Judges	: Jose Quintao Antonio Fonseca Hugo da Cruz Pui
Prosecutor	: Luis Henrancio Rangel da Cruz
Public Defender	: Antonio Fernandes
Type of Penalty	: Prison sentence of 2 years and 6 months, suspended for 3 years

On 19 May 2017 the Baucau District Court, through the district court in Manatuto District, conducted a hearing to attempt conciliation in a case of mistreatment of a spouse involving the defendant BKSJ who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on an unspecified day and month at some time during 2016, at 4.00pm, the defendant kicked the victim once on her left shoulder causing the victim to fall to the ground and the victim's shoulder struck a stone and this caused a dislocation, swelling and pain. Whilst they have been living together the defendant repeatedly struck the victim but the victim could not recall the day, month and year of these incidents.

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

### **Presentation of evidence**

During the trial the defendant totally denied all of the facts set out in the indictment of the public prosecutor and stated that he did not commit the crime against the victim. The victim maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor maintained the charges and requested for the court to sentence the defendant to 2 years in prison, suspended for 3 years. The public defender stated that in accordance with the evidence provided during the trial he requested for the court to impose a fair penalty 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. Based on this evidence the court concluded the matter and sentenced the defendant to 2 years and 6 months in prison, suspended for 3 years.

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

Case Number	: 0017/16. MNLCL
Composition of the Court	: Panel
Judges	: Hugo da Cruz Pui Antonio Fonseca Jose Quintão
Prosecutor	: Luis Henrancio Rangel da Cruz
Public Defender	: Antonio Fernandes
Type of Penalty	: Prison sentence of 2 years and 6 months, suspended for 3 years

On 18 April 2017 the Baucau District Court, through the district court in Manatuto District, conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant AMGS who allegedly committed the offence against his wife in Manatuto District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 7 July 2016, at 3pm, the defendant kicked the victim once on her right side and caused the victim to fall to the ground. The defendant also struck the victim once in the mouth, then the defendant took a knife to stab the victim but was not able to do so because the victim ran and hid in the kitchen.

Previously on 15 August 2015, at 8.00am, the defendant punched the victim four times on her right and left cheeks. While they were living together the defendant continuously committed crimes against the victim such as punching, striking and kicking.

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

### **Presentation of evidence**

During the trial the defendant made a statement about the facts that occurred on 15 August 2015, the defendant only slapped the victim once on the right cheek. In

relation to the facts that occurred on 7 July 2016, the defendant did not kick the victim and just argued about flowers for their child who passed away. The victim maintained the facts set out in the indictment, the victim also stated that she was anxious so she ran away to stay with her older sister in Dili.

The witness AS, who is the victim's father, testified that recently the defendant and the victim were living with the witness. However, the witness stated that on an unspecified date, the defendant punched the victim twice on the cheek and kicked the victim twice on the back. When they were living separately the victim told the witness that the defendant often beat her, therefore the victim asked the witness if she could separate from the defendant.

### **Final recommendations**

The prosecutor stated that during the examination of evidence the defendant tried to defend himself by saying that he had only slapped the victim once. However the victim maintained the facts set out in the indictment, and the witness gave corroborating testimony. For this reason he requested for the court to impose a prison sentence of 2 years, suspended for 3 years.

The public defender stated that the defendant only stated the facts about what he did 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 2 years and 6 months in prison, suspended for 3 years.

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

Case Number	: 0056/16. BCBCV
Composition of the Court	: Single Judge
Judge	: Jose Escurial
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Antonio Fernandes
Type of Penalty	: Validating withdrawal of complaint

On 24 February May 2017 the Baucau District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant AOF who allegedly committed the offence against the victim LMX, in Baucau Vila Sub-District, Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 23 August 2016, at 8pm, when a vehicle passed in front of the defendant's house, suddenly the defendant threw a stone at the vehicle and it struck the side window where the victim was sitting and the stone struck the victim in the chest which caused swelling and pain.



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

### **Presentation of evidence**

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

During this attempted conciliation the victim wanted to withdraw the complaint, however on the condition that the defendant must give US\$75.00 to redress the victim's suffering. The defendant agreed and apologised to the victim. Therefore, the victim requested for the court to withdraw the complaint against the defendant.

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

### **Decision**

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

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

Case Number	: 0012/17. BCBCV
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: Validating withdrawal of complaint

On 24 May 2017 the Baucau District Court attempted conciliation in a case of simple offences against physical integrity and property damage involving the defendant DR who allegedly committed the offence against the victim JC, in Baucau Vila Sub-District, Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 December 2016, at 1pm, when the victim returned from the market and arrived in front of the World Vision office, the defendant kicked the victim's motorcycle knocking it to the ground. This act caused the victim to suffer an injury to his back, toe, elbow and knee. The defendant then kicked the victim once on the back and punched the victim once in the mouth which caused pain, swelling and bleeding, then the defendant also took a large rock and smashed it on the victim's motorcycle which smashed the speedometer.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity and Article 258 on property damage that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

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

During the attempted conciliation, the victim requested for the court to withdraw his complaint against the defendant, but the defendant has to give him US\$250 to redress the victim's suffering and repair the victim's motorcycle and the defendant agreed and apologised to the victim.

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.

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

Case Number	: 0009/16. BCLGA
Composition of the Court	: Single Judge
Judge	: José Gonsalves
Prosecutor	: Luis Hernanio Rangel da Cruz
Public Defender	: Jose Guterres
Type of Penalty	: 1 year in prison, suspended for 1 year

On 26 May 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant VX who allegedly committed the offence against his wife in Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 25 August 2016, at 11pm, the defendant slapped the victim once in the mouth and threw a stone at the victim but missed. The defendant then kicked the victim twice on the left side of her back and caused pain and swelling.

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, regretted his actions and promised not to repeat such acts in the future. The defendant also stated that after the incident he immediately reconciled with the victim. In addition, the victim maintained the facts set out in the indictment.

### **Final recommendations**

The prosecutor believed that the defendant had been found guilty of the crime in accordance with the facts set out in the indictment, and therefore he requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

The public defender requested for the court to apply an appropriate punishment against the defendant, because the defendant confessed, regretted his actions and promised not to reoffend against the victim in the future.

### **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.

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

Case Number	: 0048/15. BCBCV
Composition of the Court	: Panel
Judge	: José Gonsalves
Prosecutor	: Luis H. Rangel da Cruz
Public Defender	: Grigorio de Lima
Type of Penalty	: 5 months in prison, suspended for 1 year

On 26 May 2017 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendant FJF who allegedly committed the offence against the victims EF and LF, in Baucau Vila Sub-District, Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 8 June 2015, at 9am, the victims were improving land that was under dispute and suddenly the defendant and three friends turned up and the defendant tried to slash the victim EF but missed, and the defendant then stabbed at the victim and struck the victim once on the side of his leg and caused an injury. In addition the defendant also threw a stone at the victim LF which struck him on his right side and caused an injury and swelling.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that previously the defendant wanted to reconcile with the victims, but the victims did not want to. The defendant regretted his actions and was a first time offender.

### **Final recommendations**

The prosecutor stated that the defendant had been found guilty of committing the crime against the victims, and therefore requested for the court to impose a prison

sentence of 3 months, suspended for 1 year, and to also pay compensation to the victims.

The public defender requested for the court to impose a fair sentence against the defendant because the defendant confessed all of the facts in the indictment and previously the defendant wanted to reconcile with the victims, but the victims did not want to. The defendant regretted his actions and was a first time offender.

### **Decision**

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

### **31. Crime of Robbery**

Case Number	: 1359/11. PDBAU
Composition of the Court	: Panel
Judges	: José Gonsalves Afonso Carmona Ercilia de Jesus
Prosecutor	: Benvinda do Rosario
Public Defender	: Jose Maria Guterres
Type of Penalty	: Acquitted

On 30 May 2017 the Baucau District Court conducted a trial to announce its ruling in a case of robbery involving the defendants FA and the victim JC, in Quilicai Sub-District, Baucau District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 9 June 2011, at 8pm, when the victim and his friend were returning from Quilicai, the defendant was standing on the road. Suddenly the defendant punched the victim once on his left side and kicked the victim once on his left side and this caused the victim to fall to the ground and then he took US\$280.50 from the victim.

The prosecutor alleged that the defendant violated Article 253.2 of the Penal Code on robbery.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that when the incident occurred the defendant didn't know what he was doing because the defendant was drunk. The defendant only found out in the morning when someone told him about the incident and the defendant also stated that this problem had been resolved in accordance with East Timorese custom. The defendant paid the money back that he had taken totalling US\$ 300, and purchased 2 cases of beer, 4 jerry cans of palm wine and one roasted goat. In addition the victim maintained the facts set out in the indictment and confirmed that this case had been resolved in accordance with East Timorese custom.

**Final recommendations**

The public prosecutor stated that based on the examination of evidence it was apparent that when the incident occurred the defendant was drunk and he used his own initiative to resolve this problem and voluntarily paid back the victim's money. For this reason he requested for the court to impose a prison sentence of 3 years, suspended for 3 years.

The public defender supported the argument of the public prosecutor that the defendant was drunk and had used his own initiative to resolve this problem and paid back the victim's money that he had taken. Therefore he requested for the court to provide justice to the defendant.

**Decision**

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

For more information, please contact:

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