



Case Summary
The Oecusse District Court
February 2018

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 Oecusse District Court*

1. Total cases monitored by JSMP: 7

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	1
Articles 174, 161, 138, 172 of the PC	Sexual exploitation of a third party, abduction, attempted homicide and rape	1
Article 316 of the PC	Crime of smuggling	3
Articles 145 & 161 (PC)	Simple offences against physical integrity and abduction	1
Article 252 of the PC	Aggravated larceny	1
Total		7

2. Total number of decisions monitored by JSMP: 1

*This case summary for February 2018 only includes a limited number of cases because during the first week the Oecusse District Court only tried one case of domestic violence. During the second week there were no trials because the judges went back and forth to Dili to make preparations for trials requiring a panel of judges. In the third week the trials involving a panel of judges were adjourned to the following month and judges from the Oecusse District Court went back and forth to Dili to attend the funeral of the judge Constâncio Barros Basmeri. During the fourth week on Monday and Tuesday there were no trials and trials continued on Wednesday.

Type of decision	Number of cases
Suspension of execution of a prison sentence (Article 68 of the PC)	1
Total	1

3. Total cases adjourned based on JSMP monitoring: 1

Reason for adjournment	Number of cases
Panel of Judges did not have enough time	1
Total	1

4. Total ongoing cases based on JSMP monitoring: 5

B. Short description of the trial proceedings and decisions in these cases

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

Case No. : 0011/17.OEOSL
Composition of the Court : Single Judge
Judge : João Ribeiro
Prosecutor : Mateus Nessi
Public Defender : Marcelino Marques Coro
Type of Penalty : 1 year in prison, suspended for 1 year

On 5 February 2018 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DdSA who allegedly committed the offence against his wife in Oecusse District.

Charges of the Public Prosecutor

The public prosecutor alleged that at 8am on 25 July 2017 the defendant punched the victim once above her left eye and punched the victim three times on the back. The defendant then slapped the victim twice on the back of the neck which caused the victim to suffer pain to her eye, her back and also to the back of her neck. A medical report from PRADET and photographs from Police-VPU were also attached to this case file.

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 (b) and 36 of the Law Against Domestic Violence.

Examination 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 is a farmer, has no fixed monthly income and has 2 children. The defendant promised to the court that he would not commit any further crimes against his wife or other person in the future. The defendant understood that punching someone can cause pain and damage their physical health. The defendant stated that after this incident they immediately reconciled and have been living together as husband and wife.

The court disregarded the victim's statement because during the trial the defendant confessed all of the facts, and the public prosecutor and public defender agreed with this request.

Final recommendations

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. The public prosecutor mentioned that cases of domestic violence are prevalent in the Oecusse Region in comparison with other districts. For this reason the prosecutor requested for the court to convict the defendant pursuant to Article 145 of the Penal Code.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a penalty against the defendant proportionate to his crime.

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.

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