



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

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JSMP continues to recommend for the Public Prosecution Service and the courts to order defendants to pay civil compensation to victims in cases characterized as sexual violence

JSMP continues to recommend for the Public Prosecution Service and the courts to order defendants to pay civil compensation to victims in cases characterized as sexual violence. In most of the cases characterized as sexual violence monitored by JSMP, the main decision did not include an order for defendants to pay civil compensation to victims.

"Victims who suffer violence, including sexual violence, have the right to civil compensation to redress the suffering of the victim, namely psychological and physical suffering, and this right is provided for in the Criminal Procedure Code and the Civil Code," said the Executive Director of JSMP, Ms. Ana Paula Marçal.

Article 72.2 and Article 72.3 of the Criminal Procedure Code on procedural positions provide for civil compensation for victims including civil compensation to the aggrieved party. Article 281.3 (b) of the Criminal Procedure Code on elements required for a sentence states that "The sentence ends with an opinion containing: the convicting or acquitting decision, including the one on civil compensation. Meanwhile Article 430 (1) of the Civil Code on non-material damage states that compensation must be provided to the victim to cover the financial costs related to the violence. Article 430 of the Civil Procedure Code states that when a victim's suffering relates to violence, civil compensation must be provided. This article does not provide an option to decide to include civil compensation or not, but states that civil compensation must be included. Therefore, for certain crimes, especially those characterized as rape, defendants must be ordered to pay civil compensation to victims.

These articles clearly provide for the right of a victim to obtain civil compensation from a defendant.

JSMP believes that all types of sexual violence have a negative impact on victims, and affect their psychological development and physical health, especially sexual abuse against children. Most of these cases cause child victims to suffer pressure and trauma that impacts on them throughout their entire life, even when they are adults or have started their own family.

There are serious consequences for victims, and therefore JSMP requests for the formal justice system to use its power to protect victims, especially children, and prevent similar crimes from reoccurring in the future through the decisions issued by the courts.

Between January – July 2020 JSMP managed to monitor 34 cases characterized as sexual violence. From these cases, 14 have been decided, and from these 14 cases only one included an order for the defendant to pay civil compensation to the victim.

Types of penalties	Articles	Total
Prison Sentence	Article 66 of the Penal Code	7
Suspension of execution of a prison sentence	Article 68 of the Penal Code	2
Acquitted		4
Prison Sentence, civil compensation	Articles 66, 69 (a)	1
Postponed		5
Ongoing		15
Total		34

From this data, and based on the relevant provisions above, JSMP encourages and urges prosecutors and judges dealing with cases involving sexual violence to

carefully consider the relevant provisions that guarantee the rights of victims, such as the right to civil compensation in the indictment, final recommendation of sentence and the sentence itself, because the law provides for defendants to pay for damage or suffering caused to the victim.

The application of civil compensation against defendants in addition to the main sentence educates defendants and society to avoid committing similar crimes in the future. In addition, JSMP continues to encourage everyone to remain aware that sexual acts against women and children are very serious crimes and cause psychological suffering and affect the development of children and their future.

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