



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Case Summary**  
**Oekusi District Court**  
**July 2022**

**Statement:** 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 Oekusi District Court**  
**1. Total number of cases monitored by JSMP: 11**

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	6
Articles 172 and Article 173 of the PC, as well as Articles 2, 3, 35(b) and 36 of the LAVD	Aggravated rape characterized as domestic violence	1
Article 148 of the PC	Negligent offences against physical integrity	1
Article 145 of the PC	Simple offences against physical integrity	2
Article 160 of the PC, Article 139 and Article 224 of the PC	Crime of kidnapping, aggravated homicide and the crime of destruction, theft, hiding or profaning of a corpse	1
<b>Total</b>		<b>11</b>

**2. Total number of decisions monitored by JSMP: 7**

Type of decision	Articles	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	4
Admonishment	Article 82 of the PC	1
Validating withdrawal of complaint	-	2
<b>Total</b>		<b>7</b>

**3. Total number of cases adjourned based on JSMP monitoring: 1**

Reason for adjournment	Total Number
The defendant and victim did not attend	1
<b>Total</b>	<b>1</b>

**4. Total number of ongoing cases based on JSMP monitoring: 3**

**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 Number : 0011/21.OEOSL  
Composition of the Court : Single Judge  
Judge : Yudi Pamukas  
Prosecutor : Mateus Nesi  
Defence : Calisto Tout  
Decision : 1 year in prison, suspended for 1 year for each defendant

On 4 July 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FA and his wife RC who allegedly committed the offence against their daughter in Oecusse District.

**Charges of the Prosecutor**

The public prosecutor alleged that on 17 September 2021, at approximately 8:00am, the victim and the female defendant argued because the victim did not want to fetch some water, therefore the female defendant threw a rock at the victim and struck her on the left hand which caused pain and then the female defendant choked the victim. Therefore the male defendant got angry and took an electrical cord and struck the female defendant twice on the back which caused bruising, swelling and pain. The defendant then used the cord to strike the victim once on her back which caused swelling, redness and pain. A medical report from the Oesilo Health Centre and photographs of the injuries from this violence from the Police 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(a), 35(c) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the male defendant and female defendant confessed to all of the facts in the indictment and knew that their behaviour was not good and this caused the victim to suffer pain. The male defendant and female defendant have reconciled and are still living together. After the incident the male defendant and the female defendant regretted their behaviour, were first time offenders, promised not to repeat such acts in the future, and they work as farmers with no fixed monthly income and the male defendant and female defendant have five children.

The victim confirmed all of the facts and the female defendant is her mother and the male defendant is her father. After the incident they immediately reconciled and they are still living together.

### **Final Recommendations**

The public prosecutor stated that the male defendant's and female defendant's behaviour was proven and fulfilled the elements of the crime of simple offences against physical integrity characterised as domestic violence against their daughter, and the male defendant was also guilty for striking his wife. Therefore, the prosecutor did not doubt the facts in the indictment and requested for the court to convict the male defendant and female defendant as provided in Article 145 of the PC.

The defence stated that during the examination of evidence the defendants collaborated with the court and totally confessed the facts. The defence also stated that after incident the defendants knew that their behaviour was not good and they regretted their behaviour, they have reconciled and are still living together, they were first time offenders, they work as a farmer and a housewife without a fixed monthly income, they have five children and the two defendants are fully responsible for looking after the victim and the entire family.

### **Decision**

After evaluating all of the facts, the court proved that the victim and the female defendant argued because the victim did not want to fetch some water, therefore the female defendant threw a rock at the victim and struck her on the left hand which caused pain and then the female defendant choked the victim. Therefore the male defendant got angry and took an electrical cord and struck the female defendant twice on the back which caused bruising, swelling and pain. The defendant then used the cord to strike the victim once on her back which caused swelling, redness and pain.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendants confessed, regretted their actions, were first time offenders, have reconciled, therefore the court concluded this case and imposed a prison sentence of 1 year against each defendant, suspended for 1 year.

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

Case Number : 0012/21.OEOSL  
Composition of the Court : Single Judge  
Judge : Hugo da Cruz Pui  
Prosecutor : Pedro Baptista Aleixo dos Santos  
Defence : Marcelino Marques Coro  
Decision : Suspended sentence

On 06 July 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the male defendant JSC and the female defendant TP (the male defendant's mother, and the victim's mother in law) and the victim, who is the male defendant's wife, that allegedly occurred in Oecusse District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 8 November 2021, at approximately 12 midday, the male defendant kicked the victim once in the back which caused swelling and pain. Then the female defendant took a branch and struck the victim once in the head which caused redness, swelling and pain. A medical report from the Oesilo Health Centre and photographs of the injuries from this violence from the Police were also attached to this case file.

The public prosecutor alleged that the male defendant and female 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 (a), 35 (b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the male defendant and female defendant totally confessed to the facts set out in the indictment and knew that this behaviour was not good, they regretted their actions, this was the first time that the victim was hit, they were first time offenders, and they have not yet reconciled with the victim because after the incident the victim left the home and no longer wanted to live together with the male defendant. The male defendant works as a farmer with no fixed monthly income, has one child and he looks after their child in the home.

The victim confirmed all of the facts in the indictment and stated that since the incident the male defendant and the victim have been living separately because the victim doesn't want to live together with the defendant, because they have been living with the female defendant who is the victim's mother in law.

### **Final Recommendations**

The prosecutor stated that there were no doubts about the facts in the indictment because during the examination of evidence the male defendant and female defendant totally confessed. The public prosecutor stated that the behaviour of the male defendant and

the female defendant fulfilled the elements of the crime of simple offences against physical integrity characterised as domestic violence. The prosecutor believed that the male defendant and the female defendant used their joint power to physically assault the victim and the victim does not want to live with the male defendant and decided to leave their house because she did not feel safe living with the two defendants. Therefore the prosecutor requested for the court to convict the two defendants in accordance with the provisions of Article 145 of the Penal Code.

The defence requested for the court to impose a lenient penalty against the two defendants because they collaborated with the judicial authorities and completely confessed to all of the facts in the indictment, regretted their actions, this was the first time they hit the victim and they were first time offenders, they have not yet reconciled with the victim because after the incident the victim left the house and doesn't want to live together with the male defendant. The male defendant works as a farmer with no fixed monthly income, has one child and he looks after their child and he promised not to repeat such acts in the future.

### **Decision**

After evaluating all of the facts, the court found that the male defendant kicked the victim once in the back which caused swelling and pain. Then the female defendant took a branch and struck the victim once in the head which caused redness, swelling and pain.

Consideration was given to the facts that were proven and also the mitigating circumstances, namely that the defendants confessed, regretted their actions, this was the first time that they hit the victim and they were first time offenders and they promised not to reoffend in the future. Therefore the court concluded the matter and sentenced the male defendant to 1 year in prison, suspended for 1 year and sentenced the female defendant to 9 months in prison, suspended for 1 year.

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

Case Number : 0176/20.OESIC  
Composition of the Court : Single Judge  
Judge : Yudi Pamukas  
Prosecutor : Mateus Nesi  
Defence : Marcelino Marques Coro  
Decision : Prison sentence of 1 year, suspended for 2 years

On 18 July 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity involving the defendant Joni Neno Abi who allegedly committed the offence against his brother in law Jose Luis Tael, in Naimeco Village, Pante-makasar Sub-District, Oecusse District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 9 December 2020, at approximately 8:00am, the defendant poured hot rice porridge on the victim's head which was hot and caused pain, then the defendant twice punched the victim in the forehead, punched the victim once in the mouth, kicked him twice in the back and then twice on his left thigh which caused the

victim to fall to the ground. This case occurred because the victim got the defendant's sister pregnant and left her and was not living together with her. A medical report from the Baqui Medical Centre and photographs of this violence from the Police 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.

### **Examination of evidence**

During the trial the defendant partially confessed that on 9 December 2020, at approximately 8:00am, the defendant poured hot rice porridge on the victim's head, punched the victim once in the forehead, not twice, and punched the victim once in the mouth, kicked the victim once in the back, not twice, and kicked the victim once on his left thigh, not twice, and this caused the victim to fall to the ground. The defendant stated that he knew this behaviour was not good and he regretted his actions, was a first time offender, has not yet reconciled, is unemployed with no fixed monthly income, has two children and promised not to reoffend against the victim or other person in the future.

The victim confirmed all of the facts in the indictment and after incident the defendant did not seek out the victim to reconcile. The victim also stated that he did not want to reconcile with the defendant because he hit and kicked the victim many times all over his body.

### **Final recommendations**

The prosecutor stated that even though during the examination of evidence the defendant partially confessed, the prosecutor believed that all of the facts in the indictment were correct. The prosecutor emphasized that the defendant should use other ways to resolve problems, rather than using violence. Therefore, the prosecutor requested for the court to apply a penalty prescribed in Article 145 of the Penal Code against the defendant.

The public defender stated that during the examination of evidence the defendant collaborated and partially confessed and he gave weight to the statement of the defendant because the defendant made an honest statement based on what had occurred between the defendant and the victim. The defence state that the defendant regretted his actions, was a first time offender, is unemployed with no fixed monthly income, has two children and promised he will not repeat such acts against the victim or other person in the future. Therefore the defence requested for the court to impose a lenient penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant poured hot rice porridge on the victim's head which was hot and caused pain, then the defendant twice punched the victim in the forehead, punched the victim once in the mouth, kicked him twice in the back and then twice on his left thigh which caused the victim to fall to the ground.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant was a first time offender, regretted his actions and promised

not to reoffend in the future, therefore the court concluded this case and imposed a prison sentence of 1 year against the defendant, suspended for 2 years.

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

Case Number : 0007/21.PDOEC  
Composition of the Court : Single Judge  
Judge : Hugo da Cruz Pui  
Prosecutor : Pedro Baptista Aleixo dos Santos  
Defence : Marcelino Marques Coro  
Decision : Penalty of admonishment

On 21 July 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AF who allegedly committed the offence against her daughter in Oecusse District.

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

The public prosecutor alleged that on 4 January 2021, at approximately 8pm, the defendant and her husband argued, suddenly the victim emerged and this made the defendant even angrier, therefore the defendant slapped the victim once on her side which caused the victim to suffer pain. A medical report from the PRADET and photographs of this violence from the Police 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(a), 35(c) and 36 of the Law Against Domestic Violence.

#### **Examination of evidence**

During the trial the defendant confessed to all of the facts set out in the indictment, and knew that such acts were not good and she regretted her behaviour. This was the first time that the defendant hit the victim and appeared before the court, they have reconciled and are living together in the same home as a family, and the defendant works as a farmer with no fixed monthly income. The defendant stated that she has four children, and she is responsible for her family and promised that she would not repeat such acts against the victim or other family member in the future.

The public prosecutor requested for the court to disregard the victim's statement and the defence agreed with this request. Therefore, based on this request, the court disregarded the statement of the victim because the defendant confessed all of the facts in the indictment.

#### **Final Recommendations**

The prosecutor stated that there were no doubts about all of the facts in the indictment because during the examination of evidence the defendant confessed all of the facts in

the indictment. The prosecutor further emphasized that the defendant is supposed to protect her children from any criminal acts, but on the contrary the defendant committed a crime against her daughter. Therefore the prosecutor requested for the court to admonish the defendant.

The defence stated that during the examination of evidence the defendant collaborated and totally confessed to all of the facts in the indictment, regretted her actions, this was the first time she hit the victim and she was a first time offender, she has reconciled with the victim, and works as a farmer with no fixed monthly income, has four children and promised not to repeat such acts in the future. Therefore, the defence agreed with the request of the public prosecutor for the court to issue an admonishment against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant slapped the victim once on her side which caused pain.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted her actions, and was a first time offender, the court concluded this case and issued an admonishment against the defendant.

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

Case Number : 0014/22.OESIC  
Composition of the Court : Single Judge  
Judge : Hugo da Cruz Pui  
Prosecutor : Pedro Baptista Aleixo dos Santos  
Defence : Marcelino Marques Coro  
Decision : Validating withdrawal of complaint

On 21 July 2022 the Oecusse District Court held a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendant Domingos Sico and the victim Agostinho Bacun Colo and the victim Arjila Maria Fatima Sila, which allegedly occurred in Costa Village, Pante-makasar Sub-District, Oecusse District.

### **Charges of the Prosecutor**

The prosecutor alleged that the case occurred on 25 February 2022, at 6pm, Previously the defendant took his motorcycle for repairs at the victims' Numbey Workshop and after it was repaired the defendant continued his trip however on the way the motorcycle had problems, especially the part that had been repaired by the victims. Therefore the defendant came back to the workshop of the victims and angrily slapped the female victim once on her right cheek which caused pain. The defendant then slapped the male victim in the forehead which caused pain. A medical report from the Oecusse Referral Hospital and photos showing the effects of the violence that were taken by the police were 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 that carries a maximum penalty of three years in prison or a fine.

### **Examination of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262.1 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendant and victims.

During this attempted conciliation, the victims wanted to reconcile with the defendant however on the condition that the defendant has to pay US\$200.00 to the victims and in the future the defendant cannot repeat such acts against the victims. The defendant agreed with the victims' request and expressed regret for his actions and promised not to repeat such acts in the future, so the victims requested for the court to withdraw their complaint against the defendant.

### **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 amicable agreement between the two parties and the request of the victims to withdraw the complaint, the Court decided to conclude this matter and validate the amicable settlement between the parties, however on the condition that on 30 July 2022 the defendant has to pay US\$200.00 to the victims.

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

Case Number	: 0001/22.OEOSL
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Mateus Nesi
Defence	: Marcelino Marques Coro
Decision	: Validating withdrawal of complaint

On 25 July 2022 the Oecusse District Court attempted conciliation in a case of negligent offences against physical integrity involving the defendant Lucia Taela who allegedly committed the offence against her husband Quintiliano Quelo Sila, in Usitasae Village, Oesilo Sub-District, Oecusse District.

### **Charges of the Prosecutor**

The prosecutor alleged that the incident occurred on 11 January 2022, at 5pm. Previously the defendant and victim argued about US\$ 65, namely that the defendant only gave US\$ 60 to the victim. The defendant went inside and boiled some water in the kitchen to give their child a shower. When the defendant was taking the hot water outside the victim was going inside, so the defendant and the victim collided at the door, and the hot water spilt on the victim's face and shoulder which caused the victim to suffer an injury, burnt skin

and pain. A medical report from the Oecusse Referral Hospital and photos showing the effects of the violence that were taken by the police were included in the case file.

The public prosecutor alleged that the defendant violated Article 148.1 of the Penal Code on negligent offences against physical integrity that carries a maximum penalty of 1 year in prison or a fine.

### **Examination of evidence**

Before progressing to the presentation of evidence, pursuant to Article 262.1 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendant and victim.

During the attempted conciliation the victim wanted to reconcile with the defendant without any conditions, because after the incident they reconciled and have been living together in the same house. The defendant agreed with the victim's request and expressed regret for her actions and promised not to repeat such acts in the future, so the victim requested for the court to withdraw his complaint against the defendant.

### **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 amicable agreement between the two parties and the request of the victim to withdraw the complaint, the court decided to validate the amicable settlement.

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

Case Number	: 0002/22.OEPSB
Composition of the Court	: Single Judge
Judge	: Hugo da Cruz Pui
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: Marcelino Marques Coro
Decision	: 6 months in prison, suspended for 1 year

On 29 July 2022 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AB who allegedly committed the offence against her grandson in Oecusse District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 8 February 2022, at approximately 3pm, the defendant took a stone used to crush chili and struck the victim once on the right side of his mouth which caused an injury and pain. Prior to the assault the defendant told the victim to crush some chili but the victim complained and did not want to do it, so the

assault occurred. A medical report from the Pasabe Medical Centre and photographs of the injuries from this violence from the Police 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(a), 35(c) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant totally confessed to the facts set out in the indictment and knew that this behaviour was not good, she regretted her actions, this was the first time she hit the victim who is her grandson, and the defendant has lived with her grandson ever since he was a small child, but after the incident the victim did not want to live together with the defendant (his grandmother) and went to live with his parents. The defendant was fully responsible for the victim up until the incident occurred, she works as a farmer with no fixed monthly income. The defendant stated that she has five children, and promised that she would not repeat such acts against the victim or other family member in the future, because she is already old.

The public prosecutor requested for the court to disregard the victim's statement and the defence agreed with this request. Therefore, the court disregarded the statement of the victim because during the examination of evidence the defendant confessed all of the facts in the indictment without reservation.

### **Final Recommendations**

The prosecutor stated that there were no doubts about all of the facts in the indictment because during the examination of evidence the defendant confessed all of the facts in the indictment. The prosecutor emphasized that the defendant was supposed to protect her grandson from any criminal acts but on the contrary from the defendant committed a crime against her grandson, therefore the prosecutor requested for the court to issue an admonishment against the defendant considering that the defendant is old and will not reoffend in the future.

The defence stated that during the examination of evidence the defendant collaborated with the court and totally confessed. The defence emphasized that the defendant is elderly and will not reoffend in the future, she regretted her actions, this was the first time that she hit the victim and appeared in court, they have reconciled, she works as a farmer with no fixed monthly income, she has five children and will not repeat such acts in the future, therefore the prosecutor requested for the court to issue the defendant with an admonishment.

### **Decision**

After evaluating all of the facts, the court found that the defendant took a stone used to crush chili and struck the victim once on the right side of his mouth which caused an injury and pain.

Based on the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted her actions, was a first time offender, and promised not to reoffend in the future, therefore the court concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

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