



**Case Summary**  
**Baucau District Court**  
**January 2021**

**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 Baucau District Court**

**1. Total number of cases monitored by JSMP: 15**

Articles	Case Type	Number of Cases
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)	10
Article 145 of the PC & Articles 2, 3, and 35 (b) of Law Against Domestic Violence and Article 148 of the PC	Simple offences against physical integrity characterized as DV and negligent offences against physical integrity	1
Article 145 of the PC & Articles 2, 3, and 35 (b) of Law Against	Simple offences against physical integrity characterised as DV and property damage	1

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Domestic Violence and Article 258 of the PC		
Article 154 of the PC & Articles 2, 3, and 35 (a) of Law Against Domestic Violence	Mistreatment of a spouse	2
Article 155 of the PC & Articles 2, 3, and 35 of the Law Against Domestic Violence	Mistreatment of a minor	1
<b>Total</b>		<b>15</b>

**2. Total decisions monitored by JSMP: 11**

Type of Decision	Article	Number of cases
Suspension of execution of a prison sentence	Article 68 of the PC	9
Suspension of execution of a prison sentence and endorsement of settlement	Article 68 of the PC and Article 216 of the CPC	1
Fine and endorsement of settlement	Article 67 of the PC & Article 216 of the CPC	1
<b>Total</b>		<b>11</b>

**3. Total number of cases adjourned based on JSMP monitoring: 0**

**4. Total number of cases that proceeded based on JSMP monitoring: 4**

**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 : 0014/19. BCBCV  
Composition of the Court : Single Judge  
Judge : Florencia Freitas  
Prosecutor : João Marques  
Defence : António Fernandes  
Decision : Single penalty of 5 months in prison, suspended for 1 year

On 06 January 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FdS who allegedly committed the offence against his wife (AB) and grandchild (OB) aged 4, in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 21 July 2019, at 14:30, the defendant punched the victim AB once in the forehead and took a piece of pipe and intended to hit the victim AB again, but did not do so, because the neighbours were watching, so the defendant did not carry out his intention. Also, the defendant grabbed the victim OB by the ear. Prior to these assaults the defendant and the victim argued about the victim AB going to a plantation and coming back late. The defendant assaulted the victim OB because the defendant was looking for some betel nut which was kept in the house, but he couldn't find it, so he told the victim OB to go and search for the betel nut, but the victim did not want to, so he committed the assault.

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

### **Examination of evidence**

During the trial, the defendant used his right to remain silent. The two victims maintained the facts in the indictment and stated that they have reconciled with the defendant. The victims also stated that this was the first time that the defendant has committed an offence against them, and the defendant did not repeat his actions.

### **Final recommendations**

The prosecutor stated that even though the defendant chose to remain silent, the victims maintained the facts set out in the indictment, and therefore the defendant had been proven guilty of committing the crimes against the victims. The public prosecutor also stated that even though they have reconciled, to deter the defendant from committing such crimes in the future, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year.

Meanwhile, the public defender stated that although the defendant chose the right to be silent, based on the statements of the two victims this was the first time that the defendant had committed a crime against them and after the incident they immediately

reconciled, therefore the public defender requested for the court to impose a fair and appropriate penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim AB once in the forehead and grabbed the victim OB by the ear. Based on the facts that were proven and consideration of the mitigating circumstances, namely that this was the first time that the defendant committed a crime against the two victims, and he has reconciled with the victims, therefore the court concluded the matter and imposed a prison sentence against the defendant of five months, suspended for one year.

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

Case Number	: 0007/19. BCEVN
Composition of the Court	: Single Judge
Judge	: Florencia Freitas
Prosecutor	: Bartolomeu de Araújo
Defence	: Sidonio Maria Sarmento
Decision	: Prison sentence of 1 year and 6 months, suspended for 2 years

On 6 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant GGS and the victim TdC, his son in law, and the victim DM, his daughter, which allegedly occurred in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 March 2019, at 13:00, the victims took their sick child to hospital, however when they met the defendant on the road the defendant said something and immediately grabbed a piece of bamboo and struck the victim TdC on his left leg, struck him once on the back and once below his cheek. The defendant also used the bamboo to strike the victim DM once on the back, once on her right calf, once on her left arm and once on her right arm.

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(c,d), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial, the defendant used his right to remain silent. The victims reinforced the facts set out in the indictment and confirmed that the defendant apologized to the victims and they have reconciled. The defendant also gave compensation to the victims of US\$50.00.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victims, therefore to deter such crimes from occurring in the future because the victims are living together, the prosecutor requested for the court to impose a prison sentence against the defendant of one year, suspended for one year and six months.

The public defender stated that the defendant chose the right to remain silent, but the victims stated that they have reconciled with the defendant and the defendant also gave them compensation of US\$50.00 and a sarong, therefore the public defender requested for the court to impose an appropriate penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant took a piece of bamboo and struck the victim TdC on his left leg, struck him once on the back and once below his cheek. The court also proved that the defendant struck the victim DM once on the back, once on her right calf, once on her left arm and once on her right arm.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant apologised to the victims and they have reconciled, therefore the court concluded this matter and imposed a prison sentence of one year and six months against the defendant, suspended for two years.

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

Case Number	: 0050/20. BCSIC
Composition of the Court	: Single Judge
Judge	: Maria Modesta de Almeida Viera
Prosecutor	: Remizia de Fátima da Silva
Defence	: Grigório Maria Lourdes de Lima
Decision	: 1 month in prison, suspended for 1 year

On 11 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the

defendant JMF and the victim, his wife, which allegedly occurred in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 08 July 2020, at 10am, the victim returned from her parent's house and was carrying their child. When she arrived home the defendant took their child and said "*You can go, but you can't take the child*". The victim went and stood outside and went back inside and grabbed her clothes, but the defendant kicked the victim once on her right shoulder and the victim fell to the ground and suffered a small graze to her elbow.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant confessed the facts set out in the indictment and stated that he committed the assault because the victim was with her parents for a long time. The defendant also stated that after this incident the victim made a complaint to the police and the victim stayed in a shelter for one week. The victim came home when the defendant went to the shelter and asked for her to return. The defendant also stated that they have reconciled and since the incident the defendant has not hit the victim. They started their family in 2017, and they have one child, and this was the first time that the defendant hit the victim. The defendant also stated that he regretted his actions and promised that in the future he would not hit the victim. The defendant drives a minibus with a monthly income of US\$150.00.

Also, the victim confirmed all of the facts in the indictment and stated that as a result of the assault her shoulder was dislocated for nearly two weeks, but they have reconciled after this incident the defendant has not hit the victim.

### **Final recommendations**

The public prosecutor stated that the defendant confessed to his actions and the victim confirmed the facts, therefore although they have reconciled the public prosecutor still requested for the court to impose a penalty to deter the defendant from committing such acts in the future.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed, regretted his actions, has not repeated his actions and was a first time offender.

## **Decision**

After evaluating all of the facts, the court found that the defendant kicked the victim once on her right shoulder, 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 confessed to the facts, regretted his actions, was a first time offender, and has reconciled with the victim, the court imposed a prison sentence of one month against the defendant, suspended for 1 year.

### **4. Crime of mistreatment of a minor**

Case Number : 0041/19. LASIC  
Composition of the Court : Panel  
Judges : Jose Q. S. Celestino, José António d. Escurial,  
Sribuana da Costa  
Prosecutor : João Marques  
Defence : Sidonio Maria Sarmento  
Decision : 2 years in prison, suspended for 2 years for each of the defendants

On 13 January 2021 the Baucau District Court, through the mobile court in Lautem Municipality, conducted a trial to announce its sentence in a case of mistreatment of a minor involving the defendant EH and the defendant FdC (husband and wife) who allegedly committed the offence against ESH (adopted child) aged 14, in Lautem Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 27 April 2019, at 7pm, the defendant EH punched the victim twice in the back, kicked the victim on her left ribs and kicked the victim once on her left leg. After committing the assault, the defendant EH told the victim to take food to the defendant FdC who was giving birth at hospital. At the hospital the defendant FdC punched the victim once in the head, so the victim decided to run away and stay with her friend for three weeks. Whilst the victim was living with the defendants, they always hit and mistreated the victim, however the victim did not make a complaint and the victim could not remember the day, month and year that these acts were committed.

The prosecutor alleged that the defendants violated Article 155. 1 (a) of the Penal Code on the mistreatment of a minor which carries a sentence of 2-6 years in prison and articles 2, 3(c), 35(a) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendants stated that the victim was their niece (daughter of the male defendant's sister). The defendants acknowledged that they were angry and they hit the victim because sometimes the victim returned home from school at the wrong time, but they didn't hit her regularly. The defendants also stated that they have reconciled with the victim, but the victim has been staying with her friend until now. The defendants also stated that they regretted their actions, and that they were first time offenders and work as farmers to sustain their family.

The victim confirmed the facts set out in the indictment and also stated that the male defendant is her uncle and they have reconciled, but the victim is still staying with her friend.

### **Final recommendations**

The public prosecutor stated that the defendants confessed the facts in the indictment and the victim confirmed these facts, therefore the defendants were guilty of mistreating the victim who they should have protected. For this reason the prosecutor requested for the court to sentence the two defendants to two years and six months in prison, suspended for two years and six months.

The public defender requested for the court to consider the statements of the defendants that they did not hit the victim regularly, and as adoptive parents they have the responsibility to always monitor the movements of the victim. Also, the defendants regretted their actions and were first time offenders. The public defender requested for the court to impose an appropriate penalty against the defendants.

### **Decision**

After evaluating all of the facts, the court found that the defendant EH punched the victim twice in the back, kicked her once on her left ribs and kicked her once on her left leg. The court also found that the defendant FdC punched the victim once in the head. Also, the court found that the defendants always hit and mistreated the victim but the victim did not make a complaint.

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, and have reconciled with the victim, the court imposed a prison sentence of two years against the defendants, suspended for 2 years.

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

Case Number : 0055/20. BCBCV



Composition of the Court : Single Judge  
Judge : Maria Modesta de Almeida Viera  
Prosecutor : Bartolomeu de Araújo  
Defence : Germano Guterres Ramos  
Decision : 6 months in prison, suspended for 1 year

On 19 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AGB and the victim, his wife, which allegedly occurred in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 19 July 2020, at 23:00, the defendant slapped the victim once in the head and took a crowbar and was going to hit the victim again, but did not manage to do so because their daughter grabbed the crowbar. Prior to this incident the defendant was intoxicated and argued with the victim about harvesting rice.

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 (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 also stated that he has reconciled with the victim, and they established their family in 2009, they have three children, and this was the first time he had hit the victim and he promised in the future not to hit the victim or their children.

The victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and until now the defendant has not hit her again.

### **Final recommendations**

The public prosecutor stated that even though they have been living together for a long time and this was the first time that the defendant hit the victim, to deter the defendant from committing such acts in the future he should not become accustomed to drinking alcohol and resolving problems in the home with violence, therefore the public prosecutor requested for the court to impose a prison sentence of one month against the defendant, suspended for one year.

The public defender stated that the defendant confessed all of the facts, has reconciled with the victim, regretted his actions, and they have been together for a very long time and this was the first time that he had assaulted the victim, therefore the public defender requested 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 in the head and took a crowbar and intended to strike the victim but did not manage to do so because their daughter grabbed the crowbar. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed to the facts, regretted his actions, was a first time offender, and has reconciled with the victim, the court concluded this case and imposed a prison sentence of 6 months against the defendant, suspended for 1 year.

### **6. Crime of simple offences against physical integrity characterized as domestic violence, and negligent offences against physical integrity**

Case Number	: 0025/20. MNNTB
Composition of the Court	: Single Judge
Judge	: José António de Jesus Escurial da Silva Faria
Prosecutor	: Bartolomeu de Araújo
Defence	: José Maria Caetano Guterres
Decision	: 3 months in prison, suspended for 1 years and endorsed agreement

On 20 January 2021 the Baucau District Court read out its decision in a case of simple offences against physical integrity characterized as domestic violence and negligent offences against physical integrity involving the defendant EdC who allegedly committed the offence against his wife in Manatuto Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 31 December 2019, at midnight the defendant and the victim participated in a ceremony at a church and because it was late at night the victim asked the defendant to go home first, but the defendant rejected this suggestion and punched the victim once on her right shoulder and the victim fell to the ground. The victim stood up and ran to the road, but the defendant got on his motorcycle and followed the victim and told the victim to get on the motorcycle to return home with the defendant. When the victim got on the motorcycle the defendant revved the motorcycle so the victim became frightened and grabbed hold of the defendant tightly. The defendant lost control and collided with some gravel and they fell down, and

the victim suffered injuries to her hand, leg, body and three teeth were broken. The defendant suffered a small injury.

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 (b) and 36 of the Law Against Domestic Violence, as well as Article 148 of the Penal Code on negligent offences against physical integrity which carry a penalty of three years or a fine.

Before continuing with the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court attempted conciliation between the defendant and the victim in relation to the crime of negligent offences against physical integrity because this case was classified as a semi-public crime and is a crime on complaint.

During this attempted conciliation, the defendant and the victim stated that previously they had resolved this problem in accordance with East Timorese tradition. Therefore, the victim wanted to withdraw the complaint against the defendant. Based on the agreement of the two parties, the court endorsed the settlement. However, the court tried the crime of simple offences against physical integrity characterized as domestic violence.

### **Examination of evidence**

During the trial the defendant confessed to all of the facts in the indictment and stated that when the incident occurred the defendant was intoxicated. The defendant stated that he regretted his actions, reconciled with the victim, was a first time offender, has three children and has not hit the victim since the incident. The defendant added that he works as a farmer and is the main breadwinner of the family.

Also, the victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and since the incident until now the defendant has not committed any crimes against the victim.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the statements of the defendant and the victim, therefore to deter the defendant from committing such acts in the future, the public prosecutor requested for the court to impose a prison sentence of three months against the defendant, suspended for one year.

Meanwhile, the defence requested for the court to impose a fair penalty against the defendant based on the mitigating circumstances, namely that the defendant confessed

the facts, was a first time offender, regretted his actions, has reconciled with the victim, and works as a farmer and is the main breadwinner of the family.

### **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim once on her right shoulder, 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 confessed, regretted his actions, was a first time offender, and has reconciled with the victim, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 1 year.

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

Case Number	: 0027/20. MNMNT
Composition of the Court	: Single Judge
Judge	: José Quintão Soares Celestino
Prosecutor	: João Marques
Defence	: Germano Guterres Ramos
Decision	: 3 months in prison, suspended for 1 year

On 22 January 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant MJCS who allegedly committed the offence against his wife in Manatuto Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 April 2020, at 5.30pm, the defendant and the victim argued because the defendant asked the victim for money, but the victim did not give it to him, so the defendant punched the victim once on above her left eye, yanked her by the hair and punched the victim four times in the head. The victim made a complaint to the police and received treatment at the Manatuto 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 (a), 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, and stated that he has reconciled with the victim. The defendant also stated that he

regretted his actions, and that they established their family in 2014, they have three children, and this was the first time he had hit the victim and in front of the court he promised not to hit the victim in the future.

Also, the victim reinforced the facts set out in the indictment and confirmed the defendant's statement that they have reconciled and until now the defendant has not hit her again.

### **Final recommendations**

The public prosecutor stated that the defendant confessed the facts and the victim provided confirmation, and also the medical report and photos in the case file show that the victim suffered bruising and swelling above her eye. This means that the defendant committed this crime freely and voluntarily, therefore to deter the defendant from committing such acts in the future, the public prosecutor requested for the court to impose a prison sentence of three months against the defendant, suspended for one year.

The public defender stated that that the defendant confessed all of the facts, has reconciled with the victim, and they have been together for a very long time and this was the first time that he had assaulted the victim, therefore the public defender requested for the court to issue an appropriate penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim once above her left eye and pulled her hair and then punched the victim four times in the head. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed to the facts, regretted his actions, was a first time offender, and has reconciled with the victim, the court imposed a prison sentence of three months against the defendant, suspended for 1 year.

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

Case Number	: 0008/19. BCEVN
Composition of the Court	: Single Judge
Judge	: Jumiatty Maria Freitas
Prosecutor	: Bartolomeu de Araújo
Defence	: Germano Guterres Ramos
Decision	: 3 months in prison, suspended for 1 year

On 25 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AP and the victim, his wife, which allegedly occurred in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 8 August 2020, at 7:00am, the defendant slapped the victim five times on her left and right cheeks, struck the victim once on the fingers of her left hand which caused the victim to fall to the ground. When the victim fell on the ground the defendant stomped on the victim's stomach. Prior to this incident the defendant and victim argued because the defendant helped to build a neighbour's house and came home late.

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

### **Examination of evidence**

During the trial the defendant stated that one day prior to this incident the victim spoke harshly against the defendant because the defendant helped to build a neighbour's house. The victim said a lot of things so the defendant went and slept at the home of his sister. On 8 August 2020, at 7am, the defendant returned home and the victim kept talking and swore at the defendant, therefore the defendant slapped the victim five times on her left and right cheeks, which caused her to fall to the ground and her fingers struck a wall.

The defendant also stated that he did not strike the victim on her fingers and did not stomp on her stomach. The defendant added that they established their family in 2016, they have two children, and this was the first time that he assaulted the victim. However, the defendant said he regretted his actions, and has not hit the victim again and he works as a farmer to support his family.

The victim stated that she was angry with the defendant because the defendant helped build a neighbour's house and came home late. The victim also stated that the defendant went and stayed at his sister's house and in the morning he came home. At that time the victim was angry with the defendant because he wouldn't hold their child while the victim went to work in the kitchen. Therefore, the defendant slapped the victim five times on her left and right cheeks and when the victim raised her hand to resist the defendant punched her again on the fingers of her left hand which caused the victim to fall to the ground. When she was on the ground the defendant stomped on her stomach.

The victim also stated that they have reconciled and since the incident the defendant has not hit the victim.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim, and the defendant tried to deny some of the facts, however the victim confirmed the facts, so the public prosecutor requested for the court to impose a prison sentence of one month against the defendant, suspended for one year.

The public defender stated that that the defendant confessed to the actions he committed, and he is a patient person because when the victim said a lot of things or provoked the defendant he removed himself and then on the following day the victim continued to say a lot of things and swore at the defendant and this made the defendant angry and he slapped the victim five times on her left and right cheeks. Since they established their family this was the first time that the defendant assaulted the victim and he regretted his actions. Based on these considerations, the public defender requested 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 five times on her left and right cheeks, punched the victim once on the fingers of her left and right hands and stomped on her stomach. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant regretted his actions, was a first time offender, and has reconciled with the victim, the court concluded this case and imposed a prison sentence of 3 months against the defendant, suspended for 1 year.

### **9. Crime of simple offences against physical integrity characterized as domestic violence and property damage**

Case Number	: 0027/20. BCLGA
Composition of the Court	: Single Judge
Judge	: Sribuana da Costa
Prosecutor	: João Marques
Defence	: José Maria Caetano Guterres
Decision	: Fine of US\$50.00 and endorsement of agreement

On 25 January 2021 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterized as domestic violence and property damage involving the defendant TdC who allegedly committed the offence against his wife in Baucau Municipality.

## **Charges of the Prosecutor**

The public prosecutor alleged that on 19 June 2020, at 19:00, the defendant kicked the victim once on her right side, ripped her blouse and slapped the victim once on her right ear. Prior to this assault the defendant and the victim had an argument because the defendant suspected the victim of having a romantic relationship with another man.

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, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine.

Before continuing with the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court attempted conciliation between the defendant and the victim in relation to the crime of property damage because this case was classified as a semi-public crime and is a crime on complaint.

During this attempted conciliation, the defendant and the victim stated that previously they had resolved this problem in accordance with East Timorese tradition. Therefore, the victim wanted to withdraw the complaint against the defendant. Based on the agreement of the two parties, the court endorsed the withdrawal of complaint.

Meanwhile the court continued to try the crime of simple offences against physical integrity characterized as 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 also stated that they have reconciled and the defendant apologised to the victim, they established their family in 1998, they have four children, and this was the first time that the defendant had hit the victim and the defendant is a public servant at Laga Administrative Post with a monthly salary of US\$400.00.

The victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and until now the defendant has not hit her again.

## **Final recommendations**

The prosecutor stated that the defendant confessed all of the facts alleged in the indictment and these facts were confirmed by the victim. The defendant is supposed to protect the victim, who is his wife, but rather he assaulted her, therefore to deter the defendant from such acts or from becoming accustomed to using violence to resolve



problems in the home, the public prosecutor requested for the court to impose a prison sentence of six months against the defendant, suspended for one year.

Meanwhile, the public defender requested for the court to impose a fine based on the financial capacity of the defendant and the other mitigating circumstances, namely the defendant confessed to all of the alleged facts, demonstrated remorse and was a first time offender.

### **Decision**

After evaluating all of the facts, the court found that the defendant kicked the victim once on her right side, ripped her blouse and slapped her once on her right ear.

Based on the facts that were proven, and consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, has reconciled with the victim, and was a first time offender, and, the court concluded this matter and ordered the defendant to pay a fine of US\$50 to be paid in instalments of US\$1.00 per day for 50 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number	: 0066/20. BCBCV
Composition of the Court	: Single Judge
Judge	: Jumiaty Maria Freitas
Prosecutor	: Remizia de Fátima da Silva
Defence	: António Fernandes
Decision	: 6 months in prison, suspended for 1 year

On 27 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AdS and the victim, his wife, which allegedly occurred in Baucau Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 14 June 2020, at 19:45, the defendant hit the victim many times on the back of the neck which caused the victim to fall to the ground and when the victim stood up the defendant ripped the victim's blouse and then punched the victim once on the left side of the stomach and punched the victim once above her left eye. Prior to the assault the defendant and the victim argued because the victim told the defendant to pick up the victim from her family's house, but the defendant did not want to, so the victim took a piece of steel and struck their motorcycle and then the defendant committed the assault.

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 (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 also stated that he reconciled with the victim, they started a family in 2012 and have 2 children, and this was the first time the defendant has hit the victim. The defendant added that he drives a minibus with a monthly income of US\$150.00.

Also, the victim reinforced the facts set out in the indictment and confirmed the defendant's statement that they have reconciled and until now the defendant has not beaten her again.

### **Final recommendations**

The public prosecutor stated that the defendant's actions fulfilled the crime alleged by the public prosecutor, therefore although they have reconciled it is still necessary to deter the defendant from such acts in the future so that he doesn't use violence to resolve problems in the home. Based on these considerations, the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year.

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

### **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim many times on the back of her neck, which caused the victim to fall to the ground. The court also found that when the victim stood up the defendant then punched the victim once on the left side of her stomach and punched the victim once above her left eye.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed to the facts, regretted his actions, was a first time offender, and has reconciled with the victim, the court imposed a prison sentence of 6 months against the defendant, suspended for 1 year.

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

Case Number : 0097/19. LASIC  
Composition of the Court : Single Judge  
Judge : Sribuana da Costa  
Prosecutor : Remizia de Fátima da Silva  
Defence : Germano Guterres Ramos  
Decision : 1 month in prison, suspended for 1 year<sup>1</sup>

On 28 January 2021 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant RLC and the victim, his wife, which allegedly occurred in Lautem Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 17 October 2019, at 11am, the victim went to the defendant's house and told the defendant to buy milk and other necessities for their child, but the defendant was not interested and swore at the victim and said "*You whore, you have no respect... you do nothing*", then the defendant kicked the victim once in her chest and she fell to the ground.

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

### **Examination of evidence**

During the trial, the defendant stated that the victim was his second wife and they established their family in 2018. The victim lives with the defendant's parents and the defendant lives with his first wife, but when their child was two years and six months old the victim left their child at the home of the defendant's parents and wanted to separate from the defendant. The defendant said that on 17 October 2019, at 11am, the victim went to the defendant's house and swore at the defendant. The victim also took a rock and threw it at the defendant's left leg and when the defendant cried out and lifted his leg the victim was surprised and fell to the ground.

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<sup>1</sup> The examination of evidence and final recommendations in the case were conducted by the mobile court in Lautem Municipality, on 15 January 2021

The victim confirmed the facts set out in the indictment and stated that when the incident occurred the defendant's mother had contacted the victim repeatedly to say that there was no milk for the child, so the victim met with the defendant at his house to ask him to buy some milk, but the defendant swore at the victim and kicked the victim once in her chest and she fell to the ground.

### **Final recommendations**

The public prosecutor stated that even though the defendant denied kicking the victim in the chest, the victim confirmed the facts set out in the indictment and requested for the court to impose a prison sentence of three months against the defendant, suspended for one year.

The public defender considered the defendant's statement that he lifted his leg and the victim was surprised and fell to the ground, therefore the public defender requested for the court to acquit the defendant from the charges.

### **Decision**

After evaluating all of the facts, the court relied on the statement of the victim that the defendant kicked the victim in the chest, which caused the victim to fall to the ground. Based on the facts that were proven, and consideration of all of the circumstances, namely that the defendant collaborated with the court, the court concluded this matter and sentenced the defendant to 3 months in prison, suspended for 1 year, and the defendant was also ordered to pay court costs of US\$20.00.

For more information, please contact:

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