



**Case Summary**  
**The Dili 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 Dili District Court**

**1. Total number of cases monitored by JSMP: 16**

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) and Articles 2, 3, 35 (b) and 36 of the Law Against Domestic Violence (LADV)	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
Article 154 of the PC & Articles 2, 3, and 35 (a) of the Law Against Domestic Violence	Mistreatment of a spouse	1
Article 20 (1) of the Law on Bladed Weapons	Bladed weapons	1
Article 145 of the PC	Simple offences against physical integrity	2
Article 146 of the PC	Serious offences against physical integrity	1
Article 172 of the PC	Rape	1

Articles 177 & 182 of the PC	Aggravated sexual abuse of a minor	1
Article 258 of the PC	Property damage	1
Article 260 of the PC	Property damage with violence	1
Article 135 of the PC	Religious or racial discrimination	1
<b>Total</b>		<b>16</b>

## 2. Total decisions monitored by JSMP: 15

Type of decision	Articles	Total Number
Prison sentence	Article 66	1
Suspension of execution of a prison sentence	Article 68 of the PC	5
Fine	Article 67 of the PC	2
Acquitted		3
Endorsed Agreement	Article 216 of the CPC	4
<b>Total</b>		<b>15</b>

## 3. Total cases adjourned based on JSMP monitoring: 0

## 4. Total ongoing cases based on JSMP monitoring: 1

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

#### 1. Crime of religious or racial discrimination

Case Number : 0036/21 PGGCC  
Composition of the Court : Panel  
Judges : Afonso Carmona, Ersilia de Jesus and Evangelino Belo  
Prosecutor : Domingos G. Barreto  
Defence : Francisco Nicolau (private lawyer)  
Decision : Acquitted

On 5 July 2022 the Dili District Court conducted a hearing to announce its decision in a case of religious or racial discrimination involving the defendant Vicente Ximenes "Maubocy" and the victim Mari Bim. A. Alkatiri, that allegedly occurred in Dili Municipality.

#### Charges of the Prosecutor

The public prosecutor alleged that on 28 January 2021, at approximately 9am, via social media from the defendant's own Facebook account identified as Vicente Ximenes, a written notice was posted criticizing the victim who is a political figure. The defendant posted a written notice on his Facebook account that discriminated against the victim by saying that "it's time for Fretilin leaders to appoint nationals, Catholics, moderates rather than foreigners, Muslims and radicals." The post of the defendant was debated in public with those in favour and against. The defendant knew that his post was a form of racial or religious discrimination via his personal facebook page, and wanted to create general confusion amongst members of the public and the main objective was to obtain a public position within the Fretilin political party. The defendant knew very well that the victim held the position of the Secretary General of the Fretilin political party and the victim is a national citizen and is a Muslim, as stated in Articles 3 and 2, i and 12 of the Timor-Leste Constitution.

The public prosecutor alleged that the defendant violated Article 135 of the Penal Code on religious or racial discrimination that carries a maximum penalty of 4-12 years in prison.

### **Examination of evidence**

During the trial the defendant stated and acknowledged that he wrote these sentences on Facebook with the intention of criticizing the victim, but he did not commit discrimination. The defendant also stated that he has been a follower of Fretilin for a long time and is close to the victim, and the defendant committed this act because he observed that the victim never listened to anyone and did whatever he liked. The defendant also stated that he believed that it was time to give opportunities to other East Timorese people who have been working hard all of this time for the Fretilin Party.

The victim confirmed the facts in the indictment and also stated that he never hates or gets angry with anyone. The victim took this matter to court because he could not accept the statement that said he was a foreigner and not a national and also the statement referring to him as a Muslim. The victim also stated that by assuming this position it means he is an East Timorese citizen as set out in the Timor-Leste Constitution.

### **Final Recommendations**

The public prosecutor stated that the defendant acknowledged his actions against the victim. The victim also confirmed all of the facts in the indictment and the defendant also stated that he did not criticize the victim but he discriminated against the victim, and the mitigating circumstances were that the defendant was a first time offender and as a follower of Fretilin he has a good relationship with the victim, therefore the prosecutor requested for the court to sentence the defendant to two years in prison, suspended for two years.

The defence stated that the defendant acknowledged his actions against the victim however his intent was to criticise and not to discriminate, also the victim confirmed all of the facts in the indictment and also stated that he did not accept the statement that he was an outsider, however in relation to the other facts the victim did not feel offended, so

the defence requested for the court to acquit the defendant.

### **Decision**

After evaluating all of the facts, the court considered that the defendant intended to criticise, but did not intend to discriminate against the victim. The defendant and victim were also good friends in the same political party, therefore the court concluded this matter and acquitted the defendant from this process.

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

Case Number	: 0032/20.DIMTN
Composition of the Court	: Single Judge
Judge	: Argentino Nunes
Prosecutor	: Hernani Rangel
Defence	: Agostinha Pinto
Decision	: 3 months in prison, suspended for 1 year

On 7 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant J GC who allegedly committed the offence against his wife in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 22 December 2020, at approximately 1.00pm, the defendant slapped the victim once on the back of the neck, the defendant threw a rock at the victim but missed, and the defendant followed the victim and punched the victim once on the back of the neck. The defendant assaulted the victim twice however the victim did not lodge a complaint.

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 also regretted his actions.

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

### **Final Recommendations**

The prosecutor believed that the defendant was guilty of committing the crime against the victim based on the confession of the defendant, therefore to prevent the defendant from reoffending in the future the public prosecutor requested for the court impose a

suspended sentence against the defendant.

The defence requested for the court to apply a lenient sentence against the defendant with the consideration that the defendant confessed, regretted his actions, and has separated from the victim.

### **Decision**

After evaluating all of the facts, the court found that the defendant slapped the victim once on the back of the neck, the defendant threw a rock at the victim but missed, and the defendant followed the victim and punched the victim once on the back of the neck.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed and regretted his actions, the court settled this matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

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

Case Number	: 0099/21.DIDIL
Composition of the Court	: Single Judge
Judge	: Alvaro Freitas
Prosecutor	: Reinato Bere Nahak
Defence	: Manuel Sarmento
Decision	: Validating withdrawal of complaint

On 14 July 2022 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Domingos Ximenes and the defendant Jordan Tonio who allegedly committed the offence against the victim João Batista in Dili Municipality.

### **Charges of the Prosecutor**

The prosecutor alleged that on 5 May 2021, at approximately 10pm, the victim was riding a motorcycle from Matadoru towards Tuanalaran to do some work at a wake. When the victim arrived in front of the house belonging to his brother Abrão, the defendants' dog ran out from the gate to bite the victim, so the victim was startled and leaned up against the wall, the victim was angry and threw a rock at the dog but he missed and hit the wall and the rock ricocheted and landed inside the gate of the defendants. Therefore the defendants came out and did not chase the dog away. The defendant Domingos used his leg to push the victim and he fell over. Therefore the victim said to the defendants that "the dog was going to bit me so I threw a rock, but it did not hit the dog and landed inside the gate". The defendant Domingos then punched the victim in the mouth and caused swelling. Meanwhile the defendant Jordan punched the victim once in the mouth under his helmet. Then their neighbours came and took the victim so he could do some work at the wake, and not long after the police came and took the victim to make a complaint at the Vera Cruz Police Station. As a consequence of the assault committed by the defendants, the victim suffered pain to his mouth and he was traumatised.

The public prosecutor alleged that the defendants 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 defendants and the victim.

During this attempted conciliation, the victim wanted to reconcile with the defendants, because previously they reconciled and entered into an amicable agreement. The defendants agreed with the request of the victim, and therefore the victim requested for the court to withdraw his complaint against the defendants.

### **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.

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

Case Number	: 0099/21.DIDIL
Composition of the Court	: Single Judge
Judge	: Alvaro Freitas
Prosecutor	: Reinato Bere Nahak
Defence	: Manuel Sarmiento
Decision	: Validating withdrawal of complaint

On 14 July 2022 the Dili District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Domingos Ximenes and the defendant Jordan Tonio who allegedly committed the offence against the victim João Batista in Dili Municipality.

### **Charges of the Prosecutor**

The prosecutor alleged that on 5 May 2021, at approximately 10pm, the victim was riding a motorcycle from Matadoru towards Tuanalaran to do some work at a wake. When the victim arrived in front of the house belonging to his brother Abrão, the defendants' dog ran out from the gate to bite the victim, so the victim was startled and leaned up against the wall, the victim was angry and threw a rock at the dog but he missed and hit the wall and the rock ricocheted and landed inside the gate of the defendants. Therefore the defendants came out and did not chase the dog away. The defendant Domingos used his leg to push the victim and he fell over. Therefore the victim said to the defendants that "the dog was going to bit me so I threw a rock, but it did not hit the dog and landed inside the gate". The defendant Domingos then punched the victim in the mouth and caused

swelling. Meanwhile the defendant Jordan punched the victim once in the mouth under his helmet. Then their neighbours came and took the victim so he could do some work at the wake, and not long after the police came and took the victim to make a complaint at the Vera Cruz Police Station. As a consequence of the assault committed by the defendants, the victim suffered pain to his mouth and he was traumatised.

The public prosecutor alleged that the defendants 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 defendants and the victim.

During this attempted conciliation, the victim wanted to reconcile with the defendants, because previously they reconciled and entered into an amicable agreement. The defendants agreed with the request of the victim, and therefore the victim requested for the court to withdraw his complaint against the defendants.

### **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.

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

Case Number	: 0063/21 DICMR
Composition of the Court	: Panel
Judges	: Maria Solana, Francisca Cabral and Ana Paula Fonseca
Prosecutor	: Luis Hernani Rangel
Defence	: Joana Cristina
Decision	: Prison sentence of 2 years, suspended for 2 years

On 14 July 2022 the Dili District Court announced its decision in a case of mistreatment of a spouse involving the defendant MAB who allegedly committed the offence against his wife in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that the defendant and victim have been living together as husband and wife since 2020 and they have a daughter. On 14 April 2019 at the FFTL field in Dili, without a reason the defendant punched the victim on her right thigh three

times, pinched the victim's right hand which caused an injury and pain to her thigh and hand.

Then in 2020, on a day and month that the victim cannot remember, the defendant and the victim were at their home in Bebonuk, and the defendant pulled the victim's hair and punched her in the head and bicep which caused the victim to suffer pain to her head and arm.

Then in January 2021, in Bebonuk Dili at the home of the defendant and victim at approximately 2.00pm, the defendant pulled the victim's hair and punched her in the shoulder and head which caused swelling and pain to the victim's head and left shoulder and the victim received treatment at the Comoro Health Centre. When the victim went for treatment the defendant also followed the victim and told her to lie if anyone asked about the swelling to her head. Then on 5 February 2021, at 2:30pm, the defendant pulled the victim's hair and struck the victim on her shoulder which caused pain to her head and shoulder.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse together with Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

### **Examination of evidence**

During the trial the defendant denied all of the facts in the indictment and also stated that since they have been together as husband and wife the defendant never hit the victim, the defendant only had an argument with the victim on 5 February 2021, because the victim sent a romantic message to another man and therefore they argued and the victim fled to her parents house therefore the defendant did not want to live together with the victim.

Meanwhile the victim confirmed all of the facts in the indictment and stated that since they have been together the defendant regularly assaulted the victim however she did not make a complaint because she really loved the defendant, and the victim also stated that the defendant always keeps her phone and if she asks for her phone the defendant always gets angry and assaults the victim. She also stated that there is no other man in her life, only the defendant, however the defendant did not love the victim and always physically assaulted the victim.

The statements of the defendant and victim were different so the court cross-examined them, and during this cross-examination the defendant and the victim each maintained their position and the defendant stated that he did not hit the victim however he only argued because the victim had another boyfriend. Meanwhile the victim was very upset and was crying, and she swore that since they had been together the defendant regularly physically assaulted her and in January 2021 the defendant hit the victim in the head and she suffered swelling however the victim did not inform the doctors that treated her headwound and the defendant's parents because the victim loved the defendant.



## **Final Recommendations**

The public prosecutor stated that even though the defendant denied all of the facts in the indictment, the prosecutor trusted the statement of the victim, and that the defendant was guilty for committing the crime of mistreatment of a spouse, because the victim only stated the truth and the victim showed her feelings of sadness, when she was crying and swore that she was telling the truth and confirmed all of the facts in the indictment, namely that she was not a liar or manipulator, and the victim also stated that despite everything she still loved the defendant but the defendant did not want to continue living together with the victim.

For this reason the public prosecutor had no doubts and requested for the court to impose a prison sentence of 2 years, suspended for 3 years against the defendant.

On the other hand the defence stated that the victim confirmed all of the facts in the indictment, however the defendant denied all of the facts and during the cross-examination the defendant and victim each maintained their respective position, therefore the defence stated that there was no other evidence produced and therefore the defence requested for the court to acquit the defendant from this crime.

## **Decision**

After evaluating all of the facts the court considered that all of the facts were proven based on the indictment of the prosecutor with the confirmation of the victim which was also reinforced with a medical report.

Based on all of the facts that were proven, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

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

Case Number	: 0020/21.LIBZT
Composition of the Court	: Single Judge
Judge	: Evangelino Belo
Prosecutor	: Hernani Rangel
Defeza	: Marcal Marcarinhas
Decision	: Prison sentence of 1 year and 6 months, suspended for 2 years

On 15 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JC who allegedly committed the offence against his wife in Liquiça Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 8 February 2021, at 10am, the defendant choked

the victim, which caused the victim to suffer pain and she had difficulty breathing, the defendant then used a torch to strike the victim four times in the head and punched the victim once in the forehead which caused pain, an injury and heavy bleeding, when the victim tried to run outside the defendant chased her and used his elbow to strike the victim once on her shoulder, which caused pain. Previously, the defendant and the victim argued because the defendant was looking for his phone and couldn't find it and he accused the victim of taking it. The victim received treatment at the Liquiça 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 also said he regretted his actions, was a first time offender, and promised not to commit any more crimes in the future.

Also, the victim confirmed all of the facts in the indictment and stated that she has reconciled with the defendant and since the incident the defendant has not committed any other 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 confession of the defendant and the confirmation from the victim, therefore the prosecutor requested for the court to impose a suspended prison sentence against the defendant with rules of conduct requiring him to periodically report to the authorities.

The defence requested for the court to issue a fair sentence against the defendant with consideration that the defendant confessed, regretted his behaviour, was a first time offender and promised not to reoffend in the future.

### **Decision**

After evaluating all of the facts, the court found that the defendant choked the victim, which caused the victim to suffer pain and she had difficulty breathing, the defendant then used a torch to strike the victim four times in the head and punched the victim once in the forehead which caused pain, an injury and heavy bleeding, when the victim tried to run outside the defendant chased her and used his elbow to strike the victim once on her shoulder.

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 promised not to reoffend in the future, the court concluded this case and imposed a prison sentence of 6 months, suspended for 2 years.

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

Case Number : 0108/21. LIBZT  
Composition of the Court : Single Judge  
Judge : Alvaro M. Freitas  
Prosecutor : Claudio de Rosario  
Defence : Henrique Joao Mariz  
Decision : 8 months in prison, suspended for 2 years and alimony

On 15 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ARG who allegedly committed the offence against his wife in Liquiça Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 14 October 2021, at 6am, the victim made some cakes to sell on the side of the road and the defendant swore at the victim, then after swearing at the victim, the defendant took a piece of wood and struck the victim once in the head, however victim protected herself with her hand therefore the piece of wood struck the victim's hand which caused severe pain. After the defendant commit these acts against the victim, the victim picked up the cakes to sell them on the side of the road, when she came back from selling the cakes she met the defendant and his mother on the road. The defendant told his mother to pull the victim's hair, throw her on the ground and to stamp on the victims hand, which caused the victim to suffer pain to her head and hand.

In relation to the crime committed by the defendant's mother against the victim, previously the victim withdrew the complaint about the crime of simple offences against physical integrity committed by the defendant's mother, because this is a semi-public crime and they are economically dependent on each other.

### **Examination of evidence**

During the trial, the defendant denied all of the facts in the indictment and stated that he did not hit the victim but rather the victim took a plastic chair and twice struck the defendant in the head, scratched the defendant's throat and took a piece of wood and struck the defendant in the head because the defendant told the victim to ask for a machete to clean the road for a US\$5.00 project from the defendant's mother and the defendant's mother said to the victim *"Are you going to sell cakes or sell the machete? Is that why you are asking for the machete?"* Therefore the victim argued with the defendant and hit the defendant.

Meanwhile the victim confirmed all of the facts in the indictment, and the victim also stated that since they had been living together the defendant always swore at her and argued with the victim and after the incident the victim took their two children and fled to her parent's house in Liquiça and did not want to live with the defendant.

### **Final Recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim, even though the defendant tried to deny all of the facts in the indictment, however the victim provided confirmation and did not want to live together with the victim, because while they were living together the defendant regularly committed crimes against the victim. For this reason the public prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 2 years against the defendant.

The defence requested for the court to issue an admonishment against the defendant because the defence had doubts about the statements of the defendant and the victim, because their statements did not match.

### **Decision**

After evaluating all of the facts, the court found that the defendant swore at the victim, then after swearing at the victim, the defendant took a piece of wood and struck the victim once in the head, however the victim protected herself with her hand therefore the piece of wood struck the victim's hand which caused severe pain.

Based on the facts that were proven, the court concluded the matter and sentenced the defendant to 8 months in prison, suspended for 2 years with the condition that every month the defendant must provide alimony for his children.

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

Case Number	: 0032/21.ERHAT
Composition of the Court	: Single Judge
Judge	: Evangelino Belo
Prosecutor	: Simeão B. Seixas
Defence	: Laura Valente Lay
Decision	: Fine of US\$ 90.00

On 18 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant GA who allegedly committed the offence against his wife in Ermera Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 23 October 2022, at approximately 1:30pm, the defendant kicked the victim who fell to the ground then he dragged the victim by the arm and took a piece of bamboo and struck the victim on the hand which caused the victim to suffer pain. Prior to this assault, the defendant and the victim argued about the state of their household. Then the assault occurred.

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 regretted his actions, and promised not to reoffend in the future. The defendant also stated that he committed these acts against the victim because the victim always said a lot of things about the state of their household, therefore the defendant committed these acts against the victim.

Also, the victim confirmed all of the facts in the indictment and stated that after the incident she reconciled with the defendant.

### **Final Recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of simple offences against the physical integrity of the victim based on the confession of the defendant and the confirmation provided by the victim. The defendant and the victim have reconciled and are living together, and the defendant promised that he would not reoffend against the victim, he was a first time offender, and regretted his actions, therefore the prosecutor requested for the court to issue the defendant with an admonishment.

The defence agreed with the recommendation of the prosecution to issue an admonishment because the defendant confessed, regretted his actions, was a first time offender and promised that he would not commit any further crimes in the future.

### **Decision**

After evaluating all of the facts, the court found that defendant kicked the victim which caused her to fall to the ground and dragged her by the arm and then used a piece of bamboo to strike her on the hand.

Based on the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first time offender, and promised not to reoffend in the future, therefore the court concluded this matter and ordered the defendant to pay a fine of US\$ 90 to be paid in daily instalments of US\$ 1.00 for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

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

Case Number	: 0116/18 DIDIL
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: José Elu
Defence	: Joao de Carvalho
Decision	: Validating withdrawal of complaint

On 19 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Ana Lopes da Cruz who allegedly committed the offence against the victim Teresa Tavares in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 6 June 2018, at an unspecified time, but in the morning, without a clear motive the victim was standing in front of the house and the defendant Ana pulled the victim's hair and threw her on the ground, and the victim struck her chest and this caused her to suffer pain and then the defendant punched the victim once on her right shoulder. Then the victim made a complaint to the police.

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 to the facts in the indictment that she pushed the victim to the ground because the victim and her younger sibling took corrugated iron from a wall that surrounded the defendant's home. The victim also said that she did not punch the victim in the arm, but just pushed her over.

Meanwhile, the victim confirmed all of the facts in the indictment and stated that the victim and her younger siblings did not remove corrugated iron from the wall that surrounded the defendant's house.

After hearing the victim's statement the judge asked the victim to withdraw the complaint against the defendant, because this is a semi-public crime, and the victim agreed with this request and was willing to reconcile with the victim, however she asked the court to remind the defendant not to commit such behaviour against the victim in the future.

In relation to the withdrawal of the complaint, the defendant agreed and was willing to reconcile so the defendant stood up and apologized to the victim and shook hands with the victim and promised not to reoffend in the future.

### **Final Recommendations**

The prosecutor agreed with the withdrawal of complaint from the victim because the victim is allowed to withdraw the complaint or continue with this process, and in this case the victim withdrew the complaint against the defendant therefore the prosecutor requested for the court to endorse the withdrawal of complaint by the victim and to acquit the defendant from this crime.

The defence also agreed with the withdrawal of complaint by the victim and asked for an endorsement and to acquit the defendant from this crime.

### **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.

### **10. Crime of property damage**

Case Number : 0600/21. DICMR  
Composition of the Court : Single Judge

Judge : Argentino Nunes  
Prosecutor : Hipolito Expostu Martins  
Defence : Sebastião Amado  
Decision : Validating withdrawal of complaint

On 21 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant Desatino Pereira who allegedly committed the offence against the victim Jaime Rangel Guterres in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 21 November 2021, at approximately 9pm, the victim and his cousin went to buy an electricity voucher, and on the way at Kakaulidun the defendant and his group assaulted the victim and his cousin by throwing stones at the victim and his cousin, therefore the victim could not turn around on this motorcycle and he left the motorcycle on the road to run home and tell his parents. The victim clearly saw the defendant standing on the road at that time, when the victim left his motorcycle the defendant threw a big rock at the motorcycle mirror and smashed it, and the left indicator was smashed, the exhaust pipe was dented, and the seat was ripped. These acts caused damage totalling US\$300.

The public prosecutor alleged that the defendant violated Article 258 of the Penal Code on property damage with that carries a maximum penalty of 1 year in prison or a fine.

### **Examination of evidence**

Pursuant to Article 262 of the Criminal Procedure Code (CPC) on attempted conciliation, before continuing with the examination of evidence, the judge asked the defendant and victim if they wanted to achieve conciliation in this case, and the victim wanted to withdraw his complaint against the defendant, on the condition that the defendant does not repeat such acts in the future, and asked the defendant to repair the victim's motorcycle totalling US\$60.00. Also, the defendant agreed to pay for the damage he caused based on the amount of money requested by the victim. Therefore, the victim requested for the court to withdraw the 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 agreement.

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

Case No. : 0078/20.LIBZT  
Composition of the Court : Single Judge  
Judge : Argentino Nunes

Prosecutor : Hernani Rangel  
Defence : Manuel Sarmento  
Decision : Fine of US\$ 45.00

On 27 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant NH who allegedly committed the offence against his wife in Liquiça Municipality.

### **Charges of the Prosecutor**

The prosecutor alleged that on 16 July 2020, at 3:00pm, the defendant punched the victim once on her ear, punched her twice on the back of her neck, punched her once in the head and punched her once above the eye which caused pain and swelling. Prior to this assault the defendant and the victim had an argument because the victim borrowed US\$10.00 from her mother but did not inform the defendant. The victim asked the defendant to come home to talk nicely, but the defendant committed these acts against the victim. As a consequence of the defendant's actions, the victim suffered pain and swelling to her body where she was hit, and she received medical treatment at the Bazartete Health Centre.

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

### **Examination of evidence**

During the trial the defendant totally confessed to all of the facts set out in the indictment, the defendant also stated that they have reconciled and they are still living together. The defendant expressed regret for his actions and promised to the court not to repeat such acts in the future.

The victim confirmed all of the facts in the indictment and stated that they have reconciled and she is still together with the defendant.

### **Final Recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim, based on the confession of the defendant and confirmation from the victim, therefore the prosecutor requested for the court to order the defendant to pay a fine of US\$30, in daily instalments of 50 cents for 60 days, the court also imposed an alternative punishment of 40 days in prison, if the defendant does not pay the fine.

The defence stated that the assault occurred because the victim borrowed money without telling the defendant, and this made the defendant angry, and therefore the defendant apologized to the victim and promised not to reoffend in the future. Therefore the defence requested to reduce the fine to US\$10 or to impose a lenient penalty against the defendant.



## **Decision**

After evaluating all of the facts, the court found that the defendant punched the victim once on her ear, punched her twice on the back of her neck, punched her once in the head and punched her once above the eye which caused pain and swelling.

Based on the facts that were proven and with consideration of the mitigating circumstances such as the defendant confessed, regretted his actions and has reconciled with the victim, the court concluded this matter and ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of US 50 cents for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

### **12. Crime of using a bladed weapon**

Case Number : 0248/18.DIDIL  
Composition of the Court : Panel  
Judges : Ana Paula Fonseca, Maria Solana, Ivan Patrocinio  
Prosecutor : Pedro Baptista A. do Santos  
Defence : Humberto Alves  
Decision : Acquitted

On 29 July 2022 the Dili District Court conducted a hearing to announce its decision in a case of using a bladed weapon involving the defendant Jacob Soares Xavier and the victim Remencio Almeida das Dores, which allegedly occurred in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 25 December 2018, at approximately 5pm, the victim and his friends were sitting around drinking alcohol in their neighbourhood, and suddenly the defendant became angry and started saying bad things and was angry towards the victim and his friends. After he said those things the defendant went home and took a knife and hid it inside his jacket, and then the defendant came back and kicked a chair that the victim was sitting on, so the victim said to the defendant *“brother if you want to drink alcohol, sit down and I will get some”*, and when he heard this the defendant became even angrier and asked the victim *“what, what, what.”* Then the defendant took out the knife from his jacket to stab the victim in his body. In response the victim used his hand to defend himself against the knife, and the knife struck his fingers. As a consequence of the defendant’s actions, namely that he attacked the victim with a knife, the victim felt unsafe and the defendant also disturbed public safety and tranquillity.

The prosecutor alleged that the defendant violated Article 2 and 2g and Article 20 of Law 5/2017 on Bladed Weapons.

### **Examination of evidence**

During the trial the defendant totally confessed all of the facts set out in the indictment, regretted his actions, and he stated that he knew that his acts constituted a crime and were not good. The defendant also stated that they have resolved the matter and he has reconciled with the victim. Because the defendant totally confessed the court decided to ignore the statement of the victim and witness.

### **Final Recommendations**

The public prosecutor stated that the defendant confessed all of the facts, namely that the defendant took a knife and tried to stab the victim. The Law on Bladed Weapons prohibits the use of weapons that are defined as a sword, knife, machete, as well as knives that are not used in the household or are used in farming. The prosecutor requested for the defendant not to commit any crimes in the future, and therefore requested for the court to sentence the defendant in accordance with the penalties set out for this crime.

Meanwhile the defence requested for the court to impose a suspended sentence against the defendant because after the incident they reconciled and were back to normal, and the defendant collaborated with the court, regretted his actions and promised he will not repeat such acts in the future.

### **Decision**

After assessing all of the facts the court found that all of the facts were not proven. Therefore the court concluded the matter and acquitted the defendant.

### **13. Crime of Rape**

Case Number : 0198/20.DICMR  
Composition of the Court : Panel  
Judges : Jose G. Alvaro Freitas, Argentino Nunes  
Prosecutor : Claudino do Rosario  
Defence : Joana Cristina Pinto  
Decision : Acquitted

On 29 July 2022 the Dili District Court conducted a hearing to announce its decision in a case of rape involving the defendant RdA Martins who allegedly committed the offence against the victim in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 22 February 2020, at approximately 11pm, the defendant rang the victim and told the victim to come outside, so the victim came out to the gate and saw the defendant's car parked in front of the gate and the door of the car was open. The defendant grabbed the victim by the arm and pushed her into the car and the defendant entered the car and immediately locked the doors, then he started up the car and took off. When the defendant pushed the victim inside the car the victim did not manage to scream because he pulled her by the arm and pushed her inside the car and did this really quickly and the victim wanted to scream and open the door of the car but she couldn't because the defendant immediately locked all of the doors. Inside the car the defendant forced her to be his girlfriend but the victim did not want to and she said to the defendant "*I don't want to, you have a wife and child, why would you like me*" but the defendant responded "*I have divorced my wife and I want to be your boyfriend.*" The defendant kept on repeating this statement while they were inside the car. When the car stopped the defendant moved to the back seat and sat next to the victim and said "*I want*

*to take your virginity.*” After he made this statement the defendant removed all of his clothes and forced the victim to lie down on the seat. Then the defendant pushed the victim up against the chair and took his other hand and pulled her pants down to her knees to have sexual intercourse with the victim, and the victim felt severe pain so she screamed and tried to move back and forward but she couldn’t because the defendant used his body and his power, and this traumatized the victim and she fainted inside the car and lost consciousness. When victim woke up she put her clothes back on and saw that it was 4am, so the defendant gave her a plastic bag with bread in it and told the victim *“if your family asks you, say that you bought some bread from the bakery and I saw you and I gave you a lift back home.”* The defendant also told victim *“If you tell your family and I hear about it, you better watch out.”*

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on rape that carries a maximum penalty of 5-15 years in prison.

### **Examination of evidence**

During the trial the defendant denied all of the facts in the indictment and stated that it was true that previously the defendant and the victim were in a romantic relationship and they always had sexual intercourse in the car and in the same location, and the defendant also stated that he did not force the victim but when the car was stopped in front of the victim’s house the victim immediately entered the car. The defendant stated that all of the people in the neighbourhood knew about their relationship because the defendant always picked up the victim from her house.

Meanwhile the victim confirmed all of the facts in the indictment and told the court that she was not in a romantic relationship with the defendant because the defendant has a wife and child and the defendant was a man who was flirtatious in the neighbourhood. The victim also stated that she never went out with the defendant and this was the first time that she had been raped by the defendant.

The court observed during the examination of evidence that both the defendant and the victim maintained their statements, therefore the court decided to conduct a cross-examination and the defendant and the victim maintained each of their statements and some facts were established, namely that the defendant also bothered the victim’s female cousin which resulted in a problem so the defendant stated he was friends with some of the neighbours who knew they were in a romantic relationship. Therefore the panel decided to hear from witnesses that were mentioned by the defendant and the victim during the cross-examination.

The witness JF, who is a neighbor, stated that he knew that the defendant was in a prior romantic relationship with the victim because the defendant told the witness. The witness also stated that previously he knew and heard from his friends that that the defendant was in a romantic relationship with the victim and after this problem the defendant was in a romantic relationship and married the witness. The witness also stated that the victim summoned the witness and said *“You should leave the defendant, because he has had sexual intercourse with me and now I’m going to make a complaint against him to the*

*police,*” however the witness told the victim that this was in the past and I don’t want to know about it.

The witness SCdJ, who is a neighbor, told the court that he knew the defendant and the victim because they live in the same neighbourhood and he said that the defendant was in a romantic relationship with the victim because he saw the defendant pick the victim up on a motorcycle one time and passed in front of the witness.

The witness EdC, who is a neighbor, told the court that he only knew the defendant for one year and he also knew that the defendant was in a romantic relationship with the victim because he saw the defendant pick the witness up with a car and passed in front of the witness’ house.

The witness BdJ, who is a neighbor, told the court that he saw the defendant pick the victim up with a motorcycle and pass in front of him. The witness also stated that the defendant always sat with them and told the witness about his relationship with the victim.

### **Final Recommendations**

The public prosecutor stated that the victim confirmed all of the facts in the indictment, however the defendant stated that the defendant and the victim were in a romantic relationship for two years and had sexual intercourse many times and the witnesses also stated that the defendant and the victim were in a romantic relationship and they saw the defendant pick up the victim with a motorcycle and a car, and also during the cross-examination both the defendant and the victim maintained their statements, therefore there were doubts, so the prosecutor requested for the court to make a decision based on its conviction.

On the other hand the public defender stated that the defendant said he was in a romantic relationship with the victim, however the victim stated that she was not in a romantic relationship with the defendant, however at 11pm the defendant rang and the victim came out and waited for the defendant in front of the gate which meant that the defendant and the victim knew each other previously, and also the witnesses stated that they saw the defendant pick up the victim previously, so the defence requested for the court to acquit the defendant from this crime.

### **Decision**

After evaluating all of the facts produced during the trial, the court found the defendant was not proven to be guilty of committing the crime based on the facts set out in the indictment. The court concluded the matter and acquitted the defendant from the charges.

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

Case Number	: 0329/21.DICMR
Composition of the Court	: Single Judge
Judge	: Alvaro Freitas
Prosecutor	: Napoleão da Silva

Defence : Jonas Henrique  
Decision : 8 months in prison, suspended for 1 year

On 29 July 2022 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdC who allegedly committed the offence against his wife in Dili Municipality.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 21 June 2021, at approximately 7pm, the defendant punched the victim once in her chest, pulled her hair and this caused the victim to fall to the ground and she injured her knees and elbows, and when the victim wanted to run away the defendant grabbed her and punched the victim twice on her shoulder. Prior to this assault the defendant and the victim had an argument because their child was crying and the defendant suspected that the victim was in a romantic relationship with another man.

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

### **Examination of evidence**

During the trial the defendant totally confessed and admitted his behaviour, and the defendant also told the court that this was the first time he committed such acts against the victim, and the defendant expressed regret and promised to the court that he would not commit any more crimes against the victim in the future.

Meanwhile the victim confirmed all of the facts in the indictment and also told the court that they have reconciled and are living together as husband and wife, and the victim also stated that after she made a complaint the defendant did not commit any further 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 confession of the defendant and confirmation from the victim, therefore the prosecutor asked for the court to sentence the defendant to 6 months in prison, suspended for 1 year and 6 months.

The defence stated that the defendant confessed, regretted his actions, has reconciled with the victim and promised not to commit any more crimes against the victim in the future, and therefore the defence requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating all of the facts the court proved that the defendant punched the victim once in her chest, pulled her hair and this caused the victim to fall to the ground and she

injured her knees and elbows, and when the victim wanted to run away the defendant grabbed her and punched the victim twice on her shoulder.

Based on the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, regretted his 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 8 months in prison, suspended for 3 years.

### **15. Crime of serious offences against physical integrity**

Case Number : 0282/17.PDDIL  
Composition of the Court : Panel  
Judges : Argentino Nunes, Alvaro Freitas, Jose  
Gonçalves  
Prosecutor : Reinato Bere Nahak  
Defence : Marçal Marcarinhas  
Decision : 2 years and 6 months in prison

On 29 July 2022 the Dili District Court announced its decision in a case of serious offences against physical integrity characterised as domestic violence involving the defendant Agostinha dos Santos who allegedly committed the offence against the victim Helena da Silva in Liquiça Municipality.

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

The public prosecutor alleged that on 26 June 2017, at approximately 8:00am, the victim met with the defendant at the Maumeta Market, Liquiça Municipality, and when the victim met with the defendant she asked for money that the defendant borrowed amounting to US\$ 15.00. Then they started to argue because the defendant denied that she borrowed the victim's money, therefore the defendant became angry and approached the victim to bite her on her right cheek, which caused an injury and heavy bleeding and the witness Luica Amelia who was at the scene separated the defendant and victim. As a consequence of the defendant's actions the victim felt pain and suffered an injury, and the victim received treatment at the Liquica Health Centre and 10 stitches to her right cheek.

The prosecutor alleged that the defendant violated Article 146 of the Penal Code on serious offences against physical integrity that carries a maximum penalty of 2-8 years in prison.

#### **Examination of evidence**

During the trial the defendant did not appear because her whereabouts are unknown therefore the defence represented the defendant.

The victim confirmed all of the facts in the indictment and told the court that she was not happy with the behaviour of the defendant who knew it was a crime but did not comply with the law because she did not participate in the trial. The victim also stated that she has not reconciled with the defendant and the defendant has not returned her money.

The victim also said that she was very upset because her cheek is still painful and she can't eat any hard food.

### **Final Recommendations**

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confirmation of the victim, and the scar on the cheek of the victim, therefore the prosecution requested for the court to sentence the defendant to three years in prison as well as to provide compensation. The defence 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 bit the victim on her right cheek which caused an injury and heavy bleeding and the victim received treatment at the Liquiça Health Centre and received 10 stitches to her right cheek.

Based on the facts that were proven and also considering that the defendant did not comply with the notification from the court and did not attend the trial, therefore the court concluded this matter and sentenced the defendant to two years and six months in prison.

### **For more information, please contact:**

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