



Case Summary
Oecusse 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 Oecusse District Court

1. Total number of cases monitored by JSMP: 8¹

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 and types of offences categorised as domestic violence.	6
Article 145 (PC)	Simple offences against physical integrity	2
Total		8

2. Total decisions monitored by JSMP: 2

Type of Decision	Article	Number
Prison	Article 66 of the Penal Code	-
Suspension of execution of a	Article 68 of the Penal Code	-

¹ JSMP monitored eight (8) cases according to the total number of cases tried by the Oecusse District Court in mid-January 2021, because for more than two and a half weeks from the start of January the Oecusse District Court did not conduct any trials as per normal because the judicial officers were in Dili and could not return to Oecusse. The judicial officers did not return to Oecusse because the State suspended the operation of the boat travelling between Dili-Oecusse because three people who entered Oecusse were confirmed positive with COVID-19 .

prison sentence		
Admonishment	Article 82 of the Penal Code	-
Validating withdrawal of complaint		2
Total		2

3. Total number of cases adjourned based on JSMP monitoring: 2

Reason for adjournment	Númeru
Prosecutor did not attend because he had only just received a notification from the court to represent the victim in a case of DV	1
Notified, but the defendant and victims did not attend	1
Total	2

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

Case Number : 0065/20.OESIC
Composition of the Court : Single Judge
Judge : Yudi Pamukas
Prosecutor : Pedro Baptista Aleixo dos Santos
Defence : Calisto Tout
Decision : Validating withdrawal of complaint

On 25 January 2021 the Oecusse District Court announced its decision regarding attempted conciliation in a case of simple offences against physical integrity involving the defendant Mario Queno who allegedly committed the offence against Ignacio Falo in Nipani Village, Pante-Makasár Sub-District, Oecusse District.

Charges of the Prosecutor

The public prosecutor alleged that on 22 April 2020, at 9pm, the defendant and his friends followed a person named Antonio Coa and they beat him. Therefore, the victim and Jorge Bana went to this person's defence and told the defendant Mario Queno not to beat Antonio Coa, but the defendant said "*I am angry like this, don't touch me,*". After making this statement the defendant then punched the victim once very hard in the mouth which caused an injury, bleeding and swelling. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation the victim wanted to reach an amicable agreement with the defendant and asked the defendant not to repeat such behaviour in the future against the victim or other person. The defendant agreed with the victim's request and expressed regret for his actions and promised not to repeat such acts in the future. Based on this agreement 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 case, the Court decided to validate the settlement.

2. Crime of simple offences against physical integrity

Case Number	: 0125/17.OESIC.
Composition of the Court	: Single Judge
Judge	: Yudi Pamukas
Prosecutor	: Pedro Baptista Aleixo dos Santos
Defence	: João Ndun (private lawyer)
Decision	: Validating withdrawal of complaint

On 27 January 2021 the Oecusse District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Baek Jon Haek (citizen of South Korea) and the victim Fernando Dos Remedios, an employee of a construction company, in Santa-rosa Sub-Village, Costa Village, Pante-makasar Sub-District, District Oecusse.

Charges of the Prosecutor

The public prosecutor alleged that on 01 July 2017, at 08:40am, the defendant struck the victim once very hard on the helmet that the victim was wearing which knocked the helmet from his head and caused intense pain to the victim's neck and head. The defendant also pushed the victim in the chest on top of a table and the victim fell down and the back of his head struck the side of a container which caused swelling.

Before the incident the defendant asked the victim about his work assessment letter and the victim said it was in his bag and after the foundations had been laid he would give it to the defendant. However, the defendant was not satisfied with the victim's response and he committed the aforementioned acts against the victim. A medical report from the Oecusse Referral Hospital and photos from the police were included in the case file.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During this attempted conciliation, the victim wanted to achieve an amicable settlement with the defendant because previously they had resolved the matter amicably, however the victim requested for the defendant no to repeat such acts against another person working for this company. Also, the defendant fully entrusted his lawyer to agree to the request of 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 case, the Court decided to validate the settlement.

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