



Case Summary
The Dili District Court
January 2020

Affirmation: 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 cases monitored by JSMP: 32

Articles	Case Type	Total Number
Article 145 of the PC in conjunction with 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	17
Article 145 of the Penal Code (PC) and Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence (LADV) and Article 20.1 of Law No. 5/2017 on bladed weapons.	Crime of simple offences against physical integrity characterized as domestic violence and crime of bladed weapons	1
Article 154 of the PC	Mistreatment of a spouse	2
Articles 1757, 1758, 1759, 1762, 1765, 1786, 1787, 1782, 1804, 1805 of the Civil Code (CS)	Exercise of parental authority	3
Article 296 of the PC	Misappropriation of public assets	1
Article 177(2) and 183 of the PC	Aggravated sexual abuse of a minor	2

Articles 177(2), 23, and 24 of the PC	Attempted sexual abuse of a minor and punishability of attempt	1
Article 259 of the PC	Aggravated property damage	1
Article 299(1) and Article 2 of Law No. 31/1999	Economic participation in business	2
Articles 139, 23, 138 of the PC	Homicide and attempted homicide	1
Article 143 of the PC	Abandonment or exposure	1
Total		32

2. Total decisions monitored by JSMP: 20

Type of decision	Total Number
Prison sentence (Article 66 of the PC)	1
Suspension of execution of a prison sentence (Article 68 of the PC)	11
Fine (Article 75 of the PC)	3
Admonishment (Article 82 of the PC)	2
Acquitted	1
Endorsement (Article 216)	2
Total	20

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

Reason for adjournment	Total Number
Defendant and victim not present	2
Adjourned without any information	1
Total	3

3. Total ongoing cases based on JSMP monitoring: 9

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

1. Case of civil regulation of exercise of parental authority Case Number : 0127/19.CVTDD

Composition of the Court : Single Judge
Judge : Antonio Fonseca
Prosecutor : Gostavo da Silva
Defence : Germano Guterres Ramos (representative of the male respondent)

Angelmo Pinto (representative of the female respondent)
Decision : Endorsement of agreement

On 17 January 2020 the Dili District Court conducted a trial in a civil case involving the regulation of the special exercise of parental authority involving two minors, NH (aged 9) and AF (aged 8) involving the male respondent JdF (father) and female respondent JSP (mother), in Dili District.

Circumstances and background

The female respondent and male respondent have been living together since 2012 and have two children AF and NH. However, in 2015 the male respondent left home and abandoned these two minors as well as the female respondent and went to live together with another woman. The male respondent neglected his responsibilities as a father to the minors and never paid alimony for the minors from that time on.

Therefore, the female respondent made a request to the Public Prosecution Service to seek parental authority for the minors.

The prosecutor, representing the minors, made a request to the court to seek parental authority in relation to the parents of the minors including an agreement from the female respondent and male respondent pursuant to Articles 1757, 1758, 1759, 1762, 1765, 1786, 1787, 1782, 1804 and 1805 of the Civil Code.

Attempted conciliation

During the trial the female respondent and male respondent made an agreement for the exercise of parental authority including the right to custody, alimony, and visiting rights which is based on an agreement between the two parties in the best interests of the minors.

Regarding custody rights or where the minors will live, the male respondent and the female respondent agreed that the minors would continue living with the female respondent. Regarding visiting rights, the male respondent and female respondent agreed for the male respondent to visit the children on Saturday or Sunday each week and also during holidays.

Meanwhile regarding the right to alimony, the male respondent and female respondent agreed for the male respondent to pay US\$50 each month for the minors to the female respondent, because the male respondent has a monthly income of US\$150.

Final recommendations

The public prosecutor stated that the female respondent and the male respondent demonstrated their good will by making the agreement in the best interests of the minors. Therefore as the

party representing the two minors, the prosecutor requested for the court to legalise the aforementioned agreement and therefore in the future if either the female respondent or the male respondent does not abide by this agreement, the prosecutor will initiate legal proceedings against the parties.

Meanwhile the representative of the female respondent requested for the male respondent to fulfil his responsibilities. The representative of the male respondent requested for the female respondent to not prevent him from visiting the minors.

Decision

The court finalized an agreement for the minors to live with the female respondent, and each month the male respondent is obliged to transfer US\$50 to the bank account of the minors (through the female respondent) at BNCTL starting on the following month. In addition, the male respondent can visit the minors each weekend and during the holidays and the children can stay at the home of the male respondent when they want to or when they agree to.

2. Civil case of regulation of the exercise of parental authority

Case Number	: 0032/2017. PDDIL
Composition of the Court	: Single Judge
Judge	: Edite Palmira dos Reis
Prosecutor	: Gostavo da Silva (Representing the minors)
Defence	: Marcal Mascarinhas (representative of the male respondent) Lorena dos Santos/ALFeLa (representative of the female respondent)
Decision	: Endorsement of agreement

On 21 January 2020 the Dili District Court conducted a trial in a civil case regarding the regulation of the special exercise of parental authority involving six minors, LdC (aged 16), LdCB (aged 13), LAdC (aged 11), HdCB (aged 9), LdCB (aged 7), FJdB (aged 5) involving the male respondent DdCB and female respondent MdJ (their parents) in Liquica District.

Circumstances and background

The female respondent and male respondent have been living together since 2001 and have six children. In April 2014 the male respondent and female respondent separated and thereafter four children have been living with the male respondent and the other two children have been living with the female respondent. Whilst they were separated the male respondent did not allow the four minors to visit the female respondent (mother) even on holidays and did not provide alimony to the two minors who are living with the female respondent.

Therefore the female respondent, who is the mother of the children, made a request to the Public

Prosecution Service seeking regulation of parental authority for the two children living with the female respondent and also the right to visit the other four children living with the male respondent.

Regarding the two minors who have been living with the female respondent, one is living with Priests in Liquica and one is living with the female respondent. The female respondent now has a new partner and a child, and the male respondent now has a new partner.

The prosecutor, representing the minors, made a request to the court to seek parental authority from the parents of the minors including an agreement from the female respondent and male respondent pursuant to Articles 1757, 1758, 1759, 1762, 1765, 1786, 1787, 1782, 1804 and 1805 of the Civil Code.

Attempted conciliation

During the trial the female respondent and male respondent made an agreement for the exercise of parental authority including the right to custody, living arrangements, alimony, and visiting rights which is based on an agreement between the two parties in the best interests of the minors.

Regarding the custody and living arrangements of the minors, the male respondent and the female respondent agreed for the four minors to continue living together with the male respondent and for the other two minors to stay with the female respondent. The male respondent agreed that he would not prevent the minors from visiting their mother on holidays. Regarding the living arrangements, both the female respondent and male respondent agreed for the minors to stay with the female respondent or male respondent, based on the preference of the minors.

Meanwhile regarding alimony for the two minors living with the female respondent, the male respondent and female respondent agreed for the male respondent to pay US\$15 each month, but the male respondent said that he is not in a position to fulfil this request because he has no work and only has a small plantation and makes less than US\$20 each month and the four children are also living with him. Therefore, the male respondent requested for the court to allow him to pay alimony based on his capacity.

Final recommendations

The public prosecutor stated that the female respondent and the male respondent demonstrated good will to make the agreement in the interests of the minors. Therefore as the party representing the two minors, the prosecutor requested for the court to legalise the aforementioned agreement and therefore in the future if either the female respondent or the male respondent does not abide by this agreement, the prosecutor will initiate legal proceedings against the parties.

The representative of the female respondent requested for the male respondent to try and fulfil his responsibilities and not to prevent her from visiting the minors.

Decision

The court finalized an agreement for the male respondent to continue having custody rights for the four children and for the other two children to live with the female respondent, but for neither party to prevent the children from visiting the other party. Regarding the rights to alimony, the male respondent can provide alimony to the children of US\$15.00 per month but this will depend on the male respondent's income, because four of the children are living with the male respondent. Therefore, the court endorsed the agreement between the female respondent and the male respondent in this case.

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

Case Number	: 0024/18.LIMBR
Composition of the Court	: Single Judge
Judge	: Antonio Jose Fonseca Monteiro
Prosecutor	: Hipolito Santa
Defence	: Sebastião Amado de Almeida
Decision	: Fine of US\$22.50

On 20 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RL who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 21 June 2018, at approximately 4pm, the defendant and victim argued because the defendant always came home late. Therefore, the defendant kicked the victim once on her left 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(a), 35(b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and the defendant also stated that he regretted his actions. The defendant knew that kicking the victim was wrong. The defendant also stated that after this incident, the defendant did not hit the victim again and they have continued to live together as husband and wife.

In addition, 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 was guilty of committing the crime alleged in the indictment based on the confession of the defendant, and the confirmation of the victim regarding the facts. Therefore, the prosecutor requested for the court to impose a suspended prison sentence on the defendant.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant regretted his actions.

Decision

After evaluating the facts that were proven during the trial, the court found that the defendant kicked the victim on her left arm. Based on this evidence and also considering that the defendant and the victim have reconciled and are living together as husband and wife, the imposed a fine of US\$22.50 against the defendant, to be paid in daily instalments of US\$0.50 for 45 days.

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

Case Number	: 0101/17.LIBZT
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Claudino do Rosario (trainee prosecutor)
Defence	: Jose da Silva
Decision	: 6 months in prison, suspended for 1 year

On 22 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant BN who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 30 October 2017, at approximately 4pm, the defendant took a rock and threw it at the victim's left leg which caused swelling and bruising. Previously, the defendant told their son SN to lay some flowers on All Saints Day in Bobonaro District. However, the victim said that SN cannot lay flowers because he's too young, and only aged 11. Therefore, they argued, and 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(d), 35(b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment and stated that the act he committed against the victim was wrong. The defendant promised not to hit the victim again in the future. The defendant added that he is a taxi driver with a monthly salary of US\$150.00 to provide for his four children and the victim.

The court decided not to hear the victim's statement because the defendant confessed all of the facts.

Final recommendations

The public prosecutor stated that the defendant's behaviour fulfilled all the elements of the crime of simple offences against physical integrity. Considering that the salary of the defendant is limited, the public prosecutor requested for the court to impose a fine on the defendant.

In addition, the public defender also agreed with this request from the prosecutor for a fine. The court considered the mitigating circumstances such as the defendant had confessed, reconciled with the victim, and regretted his actions.

Decision

After evaluating all the facts, the court found that the defendant took a rock and threw it at the victim's left leg. Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, has reconciled with the victim, and regretted his actions, the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year, and ordered the defendant to pay court costs of US\$30.00.

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

Case Number	: 0015/19.LIMBR
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Claudino do Rosario (trainee prosecutor)
Defence	: Jose da Silva
Decision	: 1 year in prison, suspended for 2 years

On 23 January 2020 the Dili District Court, through the mobile court in Maubara Sub-District, Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CdA who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 15 June 2019, at approximately 03:00am, the defendant and the victim argued and the defendant slapped the victim once on her left cheek and kicked the victim once in the chest and she couldn't breathe properly. Then the victim punched the victim once in the mouth and she suffered an injury to her mouth and he kicked her once in the thigh. Previously, the defendant and the victim participated in a marriage ceremony and when the defendant was dancing with another person the victim told the defendant that they should go home. Therefore, they went home and when they got home they argued and the defendant committed the assault against the victim.

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.

Presentation 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 said that his assault was wrong. The defendant also stated that after this incident, they have reconciled, and the defendant has not hit the victim again and they have continued to live together as husband and wife.

In addition, 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 prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts alleged in the indictment. For this reason the public prosecutor requested for the court to impose a prison sentence of 1 year, suspended for 2 years, and ordered the defendant to pay court costs based on the court's discretion. Also, the public prosecutor requested for the court to put the defendant on its criminal register.

The public defender requested for the court to impose a minimum fine against the defendant to be taken from his monthly salary because the defendant confessed and regretted his actions.

Decision

After evaluating all the facts produced during the trial, the court found that the defendant slapped the victim once on her left cheek and kicked the victim once in the chest which caused the victim to suffer difficulty breathing. The court also found that the defendant punched the victim once in the mouth which caused an injury and kicked her once in the thigh.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and has reconciled with the victim, the court concluded this matter and imposed a prison sentence of one year against the defendant, suspended for two years, and ordered the defendant to pay court costs of US\$30.00.

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

Case Number	: 0062/18.LIBZT
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Nelson de Carvalho
Defence	: Jose da Silva
Decision	: 6 months in prison, suspended for 1 year

On 23 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdS who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 17 April 2018, at approximately 9pm, the defendant slapped the victim once on her cheek. Therefore, the victim took a plate and threw it at the defendant's forehead, and he suffered bleeding. The defendant took a helmet and struck the victim once on the left shoulder. Then, the defendant and the victim fought over the helmet which caused the victim to fall to the ground and injure her knee. Prior to this incident, the victim asked the defendant for some money, but the defendant said there was no money and therefore they argued, and 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.

Presentation 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 after this incident, the defendant did not hit the victim again and they have continued to live together as husband and wife.

In addition, 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 and they are living as husband and wife.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime alleged in the indictment based on the confession of the defendant, and the confirmation of the victim regarding the facts. For this reason, the public prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

The public defender requested for the court to impose a lenient penalty against the defendant based on the defendant's regret, and because he has reconciled with the victim.

Decision

After evaluating the facts produced during trial, the court found that the defendant slapped the victim once on the cheek and took a helmet and struck the victim once on her left shoulder. The court also found that the defendant and the victim fought over the helmet which made the victim fall to the ground. In addition, the court also found that the victim took a plate and threw it at the defendant's forehead which caused bleeding.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, and regretted his actions, the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year.

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

Case Number	: 0013 /19. LIBZT
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Nelson de Carvalho
Defence	: Jose da Silva
Decision	: Fine of US\$45.00

On 24 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ADS who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 6 January 2019, at 10pm, the defendant and the victim argued because an unknown person rang the defendant and the defendant told the victim to receive the call, but the victim did not want to. Therefore, the defendant slapped the victim once on the right cheek and kicked the victim 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(a), 35(b) and 36 of the Law Against Domestic Violence.

Presentation of evidence

The defendant partially confessed to the facts that an unknown person rang the defendant, but the defendant told the victim to receive the phone call and the victim did not want to. The defendant denied that he slapped or kicked the victim, but only pushed the victim in the head and when the defendant lifted his leg, the defendant's leg connected with the victim's right arm.

The victim confirmed the facts in the indictment and stated that the defendant suspected that the victim was in a romantic relationship with another man. Also, the victim stated that since they separated the defendant did not look after their child who is now living with the victim.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime based on the allegations set out in the indictment and even though the defendant partially confessed, the victim confirmed all the facts. Therefore, the public prosecutor requested for the court to impose a fine against the defendant.

The public defender agreed with request of the prosecutor to impose a fine because the defendant was a first-time offender.

Decision

After evaluating all the facts, the court found that the defendant slapped the victim once on her right cheek and kicked the victim once on her right arm. The court also found that the defendant and the victim are separated and have one child. Based on the facts that were proven, the court concluded this matter and ordered the defendant to pay a fine of US\$45 to be paid in daily

instalments of \$ 0.50 for 90 days. The court also imposed an alternative penalty of 2 months in prison if the defendant does not pay this fine.

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

Case Number : 0078/16. LILIQ
Composition of the Court : Single Judge
Judge : Afonso Carmona
Prosecutor : Nelson de Carvalho
Defence : José da Silva
Decision : Penalty of admonishment

On 24 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FdC who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 13 August 2016, at approximately 10am, the defendant pushed the victim to the ground. Previously, the victim told their two children to study lessons for first communion at the church, but their children said they were hungry. However, the victim told their children to go to the church. When he heard this the defendant told the victim “You might be crazy. Lower your voice”. The victim kept talking and grabbed a piece of pipe. When the defendant saw the victim grab the piece of pipe the defendant took the pipe and pushed the victim 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.

Presentation of evidence

During the trial, the defendant partially confessed the facts set out in the indictment that they argued, but not because the victim told their children to go and study at church, but because the victim did not prepare breakfast for their children. The defendant added that when they were arguing, the defendant saw the victim take a piece of pipe to hit their children. Therefore, the defendant was going to take the pipe, but the victim was holding on to it tightly, and the victim fell to the ground. The defendant stated that he regretted his actions and the problem was resolved by them based on East Timorese custom and the defendant gave a pig, a *tais* (traditional cloth) and a bottle of palm wine to the victim’s family.

Meanwhile, the victim confirmed the defendant's statement that the defendant did not push the victim but when they were fighting over the pipe the victim fell to the ground. Also, the victim stated that the problem was resolved by them based on East Timorese custom and the defendant gave a pig, a *tais* (traditional cloth) and a bottle of palm wine to the victim's family.

Final recommendations

The public prosecutor stated that the defendant pushed the victim to the ground, even though the defendant and the victim said that they were fighting over a piece of pipe which caused the victim to fall to the ground. The public prosecutor requested for the court to issue an admonishment against the defendant.

The public defender requested for the court to issue an admonishment against the defendant because the defendant regretted his actions, was a first-time offender, and has reconciled with the victim.

Decision

After evaluating all the facts, the court found that the defendant and the victim were fighting over a piece of pipe and the victim fell to the ground. Based on the evidence, as well as consideration of the mitigating circumstances, namely that the matter has been resolved in accordance with East Timorese custom, and the defendant gave one pig and one bottle of palm wine to the victim's family, therefore the court concluded this matter and issued an admonishment against the defendant.

9. Crime of aggravated sexual abuse of a minor

Case Number	: 0491/10.PDDIL
Composition of the Court	: Panel
Judges	: Afonso Carmona, Antonio José Fonseca and Evangelino Belo
Prosecutor	: Hipólito Exposto Martins Santa
Defence	: Laura Lay
Decision	: Prison sentence of 3 years, suspended for 3 years

On 24 January 2020 the Dili District Court, through the mobile court in Liquica, announced its decision in a case of sexual abuse of a minor involving the defendant DJG who allegedly committed the offence against the victim, a minor aged 4 years and 6 months in Liquica District.

Charges of the Prosecutor

The public prosecutor stated that the defendant works for and lives with the victim's adopted parents. The public prosecutor alleged that on 18 May 2010, at approximately 7am, the defendant called out to the victim who was playing in front of the house to grab a puppy and took it to its mother so it could drink some milk. Because the victim was young, she did what the defendant told her. The defendant told the victim to sit on the ground and hold the dog's legs and

the defendant held the puppy's head so it could drink some milk. At that time the witness JM, who is the victim's adopted father, was inside and was looking through the window and saw the defendant holding the dog in one hand and using his other hand to squeeze the victim's sexual organs. When he saw this, the witness punched the defendant four times on his body.

The public prosecutor charged the defendant with violating Article 177.2 of the PC on sexual abuse of a minor which carries a penalty of 5 to 15 years in prison and for violating Article 182 (a) of the PC on aggravation because the victim was aged less than 12 when the perpetrator committed the act.

Presentation of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that after this incident the defendant no longer stayed with the victim and her family. The defendant also stated that he and his family tried to resolve this problem in accordance with East Timorese custom, but the victim's family did not want to.

The court did not require the statement of the victim and witnesses because the defendant confessed all the facts in the indictment.

Final recommendations

The prosecutor stated that during the examination of evidence the defendant confessed all the facts in the indictment. Based on the actions of the defendant, the public prosecutor requested for the court to use its discretion to convict the defendant.

The public defender requested for the court to impose a lenient and fair penalty against the defendant, because the defendant was a first-time offender, and is 58 years old.

Decision

After evaluating all of the facts, the court found that the defendant was working for and living with the victim's family, and the defendant took advantage of the fact that no one was home, and also took advantage of the victim's young age, and the defendant grabbed the victim's sexual organs. Based on the evidence and consideration of the mitigating and extraordinary circumstances, namely that the defendant confessed, the penalty was reduced by 1/5 and also 1/3 in relation to Article 182 on aggravation. Based on these considerations, the court sentenced the defendant to 3 years in prison, suspended for 3 years.

10. Crime of mistreatment of a spouse

Case Number	: 2884/10.PDDL
Composition of the Court	: Panel
Judges	: Afonso Carmona, Antonio José Fonseca and Evangelino Belo
Prosecutor	: Claudino do Rosario (trainee prosecutor)
Defence	: Sebastião Amado de Almeida

Decision : Prison sentence of 2 year and 6 months, suspended for 3 years

On 24 January 2020 the Dili District Court, via the mobile court in Liquica, announced its decision in a case of mistreatment of a spouse involving the defendant FdS who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on an unspecified date in 2010 the defendant returned home intoxicated. Then, the defendant took a piece of wood and struck the victim once on the calf and struck the victim twice on the back. The defendant also took a machete that was next to him and struck the victim once on her left calf with the flat bit of the machete.

On an unspecified date and month in 2010 the defendant took a large piece of bamboo and struck the victim on her left arm which broke her arm.

Then on an unspecified date and month in 2011 the defendant struck the victim five times in the chest and took a machete and tried to cut the victim but missed because the victim moved away and threw herself on the ground. The defendant took the machete and tried to cut the victim but she resisted with her left arm and suffered an injury because she was struck by the sharp part of the machete.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 years to 6 years prison as well as Articles 2, 3(a) and 35 (a) and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that some of the facts were true and some facts were not true. The defendant denied the incident in 2010 that he was intoxicated, and that he took a piece of wood and struck the victim on her calf and struck her twice on the back. The defendant just took the flat part of the machete and struck the victim once on her left calf.

The defendant also denied that he struck the victim on her left and right arms with a large piece of bamboo which broke both of her arms. The defendant stated that the victim suffered a broken arm when she was carrying a long piece of wood over her shoulder.

In relation to the incident in 2011, the defendant stated that the victim suffered an injury to her hand because they were fighting over a machete. The defendant denied that he struck the victim in the chest five times. The defendant regretted his actions and acknowledged that what he did to the victim was wrong. The defendant and the victim are living together as husband and wife and the defendant is providing for the victim and their children.

Meanwhile the victim stated that this incident happened a long time ago and she had forgotten some of the facts. The victim also stated that after this incident they reconciled, and the defendant also has not hit the victim again and the defendant has continued to provide for the victim and their children.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim, even though the defendant partially confessed to the facts in the indictment, but the victim confirmed all the facts in the indictment. Also, the public prosecutor stated that as a husband the defendant should have protected the victim, as his wife and the mother of his children. For this reason, the prosecutor requested for the court to impose a prison sentence of 3 years, suspended for 3 years against the defendant.

The public defender requested for the court to impose a suitable fine against the defendant because the defendant confessed some of the facts set out in the indictment, regretted his actions, collaborated with the court, reconciled with the victim and has time to rehabilitate himself. In addition, the defendant provides for his family.

Decision

After evaluating all of the facts, the court found that the defendant was guilty of committing the crime of mistreatment of a spouse in 2010 when he committed the acts while intoxicated, and took a piece of wood and struck the victim on her left calf and struck the victim twice on the back. The defendant also took the flat part of the machete and struck the victim once on her left calf.

The court also found that in 2010 the defendant struck the victim on her left and right arms with a large piece of bamboo which broke both of her arms. Also in 2011 the court found that the defendant struck the victim in the chest but did not prove that the defendant took a machete and struck the victim in the hand and caused an injury.

Based on the facts that were proven and also consideration of the mitigating circumstances such as the defendant has reconciled with the victim, the defendant provides for his family, therefore, the court concluded this matter and sentenced the defendant to two years and six months in prison, suspended for three years.

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

Case Number : 0028/19.LIMBR
Composition of the Court : Single Judge
Judge : Afonso Carmona

Prosecutor : Nelson de Carvalho
Defence : Jose da Silva
Decision : Penalty of admonishment

On 24 January 2020 the Dili District Court, through the mobile court in Liquica District, announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MS who allegedly committed the offence against his wife in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 2 June 2010, at approximately 8am, the defendant punched the victim once on the back of the neck, punched the victim on the back, dragged her by the hair from the bedroom to the veranda. The victim received treatment at the local Health Centre. Previously, the defendant asked the victim for some money, but the victim said there was no money. Therefore, they argued and the defendant committed the crimes against the victim.

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.

Presentation 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 knew that hitting his wife was wrong. The defendant also stated that after this incident the defendant apologised to the victim and they resolved this problem according to East Timorese custom because he gave US\$ 60.00 and a pig to the village chief and a buffalo and a sack of rice as part of the ritual.

The victim also confirmed the facts set out in the indictment and confirmed the defendant's statement that they resolved this problem in accordance with East Timorese custom, and the defendant gave compensation to the village chief and the families.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime alleged in the indictment based on the confession of the defendant, and the confirmation of the victim regarding the facts. The public prosecutor requested for the court to issue an admonishment against the defendant.

Also, the public prosecutor and 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 punched the victim once on the back of the neck, struck the victim once on the back and dragged the victim by the hair from the bedroom to the veranda. The court also found that this problem had been resolved in accordance with East Timorese culture and the defendant gave a goat to the village chief and a buffalo for the ritual. The defendant and the victim have reconciled and they are living together as husband and wife.

Based on all of this evidence, and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, apologised to the victim and the problem has been resolved in accordance with East Timorese custom, the court concluded this matter and imposed a penalty of an admonishment as well as court costs of US\$20.00.

12. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0095/19.DINFT
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Gostavo da Silva
Defence	: Avelino Teixeira (competent person – court translator)
Decision	: 6 months in prison, suspended for 1 year

On 28 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AD who allegedly committed the offence against her husband in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 23 March 2019 the defendant took a vegetable knife from a kiosk and used the flat part of the knife to hit the defendant in the hand which caused an injury and bleeding because of contact with the blade. The victim received treatment at the Health Centre. Previously, the victim was buying some things from a kiosk but did bring the defendant's phone. When the victim returned home the defendant asked the victim why he did not take the phone. The victim responded that the phone was charging on top of the refrigerator.

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.

Presentation of evidence

The defendant confessed to the facts in the indictment and stated that at that time she rang the victim because her brother had asked her for money that the victim owed to him. The

defendant also stated that she had no intention to take a sharp knife and strike the victim, but she used the flat part of the knife to strike the victim on the hand. The defendant added that when the defendant saw blood coming from the defendant's hand, she thought about the victim and she took him to get treatment at the health centre.

In addition, the victim also confirmed all the facts in the indictment and stated that after the incident, they reconciled and continued living together as husband and wife.

Final recommendations

The public prosecutor stated that the defendant's behaviour fulfilled the elements of the crime of simple offences against physical integrity because she confessed her behaviour. However, because the defendant regretted her actions, the public prosecutor requested for the court to issue an admonishment.

The defence also agreed with the prosecutor's suggestion to issue an admonishment against the defendant because the defendant and the victim have reconciled.

Decision

After evaluating all the facts, the court found that defendant took the flat part of the knife and struck the victim on the hand, but the blade struck the victim's hand.

Based on the facts that were proven, and consideration of all of the circumstances, namely that the defendant collaborated with the court and confessed, the court concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

13. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0241/19.DICMR
Composition of the Court	: Single Judge
Judge	: Afonso Carmona
Prosecutor	: Gostavo da Silva
Defence	: Avelino Teixeira (competent person – court translator)
Decision	: 6 months in prison, suspended for 1 year

On 28 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AG who allegedly committed the offence against his wife in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 18 March 2019, at approximately 8pm, the defendant and the victim had an argument and the defendant slapped the victim once on her right cheek, and punched the victim once in the right shoulder and choked her. Then, the victim pushed the defendant and the victim went out to the veranda, but the defendant followed the victim and slapped the victim once on the back of her neck, on the right side.

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.

Presentation 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 stated that the act committed by the defendant against the victim was wrong and after this incident the defendant did not hit the victim again.

The public prosecutor requested for the court to disregard the victim's statement because the defendant confessed all the facts in the indictment and expressed regret.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts alleged in the indictment. However, the defendant acknowledged that hitting his wife was wrong. For this reason, the public prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant regretted his actions.

Decision

After evaluating all the facts, the court found that the defendant slapped the victim once on her right cheek, punched the victim once on her right shoulder, and choked the victim. The court also found that the victim pushed the defendant and the victim went out to the veranda, and the defendant followed the victim and slapped the victim once on the back of her neck, on the right side.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year, and ordered the defendant to pay court costs of US\$ 30.

14. Crime of misappropriation of public assets

Case Number	: 0061/19.CACTL
Composition of the Court	: Single Judge
Judge	: Maria Modesta
Prosecutor	: Lidia Soares
Defence	: João Marques (private lawyer)
Decision	: 3 months in prison, suspended for 1 year

On 28 January 2020 the Dili District Court conducted a hearing to announce its sentence for the crime of misappropriation of public assets involving the defendant Calos Luis da Silva who allegedly committed the offence against the State of Timor-Leste in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 30 June 2019, as part of a joint operation between the Anti-Corruption Commission, the PNTL and the National Directorate of State Assets and Roads, a check point was set up in Dili for State owned vehicles being used on holidays or outside of working hours without permission. On that day the joint team stopped the defendant who is a public servant at the Institute for Business Development Support (IADE) because on Sunday the defendant was riding a Supra X State motorcycle with the Number Plate 8767.G.

IADE gave the motorcycle to the defendant to do his job and the defendant knew that IADE prohibited its staff from using vehicles on holidays without express permission. However, the defendant rode the motorcycle on Sunday without permission.

The public prosecutor alleged that the defendant violated Article 296 of the Penal Code on the crime of misappropriation of public assets that carries a maximum penalty of two years.

Presentation 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 explained that at that time he was preparing a report for ILO even though he had no permission to use the motorcycle because it was a Sunday.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime in accordance with the facts alleged in the indictment. The defendant acknowledged that riding a motorcycle belonging to the State on a holiday was against the law. For this reason the public prosecutor requested for the court to impose a apply prison sentence of 1 year, suspended for 1 year.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant regretted his actions.

Decision

After evaluating all of the facts, the court found that the defendant took the motorcycle belonging to the State on a Sunday without permission. Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and collaborated with the court, the court concluded this matter and imposed a prison sentence of three months against the defendant, suspended for one year, and ordered the defendant to pay court costs of US\$ 30.

15. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0267/18.PNSIC
Composition of the Court	: Single Judge
Judge	: Joao Ribeiro
Prosecutor	: Nelson de Carvalho
Defence	: Germano Guterres Ramos
Decision	: 6 months in prison, suspended for 1 year and 6 months

On 28 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EB who allegedly committed the offence against her husband in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that in 2002 the defendant and the victim were living together as husband and wife, but the victim already had a wife. Whilst they were living together as husband and wife, the victim was living with his first wife and always went to stay at the female defendant's house two or three times a week. On 30 August 2018, at approximately 2:30pm, a man rang the female defendant's phone and the victim asked the female defendant who rang, but she did not answer. Therefore, the victim took a bag to go back to his first wife, but the female defendant took a rock and threw it at the victim's forehead which caused heavy bleeding.

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.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and also stated that she regretted her actions. The defendant knew that throwing a rock at the victim (her

husband) was wrong. The defendant also stated that after this incident, she has not hit the victim again and they have continued to live together as husband and wife. The victim is a member of the PNTL and has been providing for the defendant and her child.

The court did not hear the victim's statement because the defendant confessed all of the facts in the indictment and expressed regret.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime alleged in the indictment based on the confession of the defendant. The public prosecutor requested for the court to issue an admonishment against the defendant.

Also, the public defender agreed with the request of the public prosecutor for the court to issue an admonishment against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant took a rock and threw it at the victim's forehead. The court also found that the defendant and the victim are living together as husband and wife even though the victim has a first wife and the victim is providing for the female defendant and her son.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted her actions, and has reconciled with the victim, the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year and six months.

16. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0085/17.DIDIL
Composition of the Court	: Single Judge
Judge	: Albertina da Conceição das Neves
Prosecutor	: Gustavo da Silva
Defence	: João de Carvalho
Decision	: 3 months in prison, suspended for 1 year

On 28 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AD who allegedly committed the offence against his wife in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 25 June 2017, at approximately 4pm, the victim went to the defendant's home to ask for the key to a motorcycle to take the motorcycle back to the victim's house. However, the defendant did not give it to her. Therefore, the defendant and the victim argued and the defendant punched the victim once on her left cheek, grabbed her by the throat which caused an injury and scratches. Then the defendant choked the victim and pushed the victim in the back which caused her to fall to the ground. The defendant left the victim and their three children for one year and did not come home.

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.

Presentation of evidence

During the trial, the defendant chose the right to be silent. The victim confirmed the facts set out in the indictment and stated that the defendant had not been home for nearly one year. The victim went to ask for the motorcycle that the defendant rode on because the motorcycle belonged to both of them. However, the defendant did not hand over the key to the motorcycle. Also, the victim stated that even though they have been separated for one year, the defendant always looked after their three children who were living with the victim. The victim also stated that she wanted to live together with the defendant because they have three children that need the love of their father.

Final recommendations

The public prosecutor stated that the defendant's behaviour fulfilled the elements of the crime of simple offences against physical integrity, and even though the defendant chose to remain silent, the victim confirmed all of the facts in the indictment. Therefore, the public prosecutor requested for the court to use its discretion to convict the defendant.

The public defender requested for the court to impose a suitable penalty against the defendant, because even though the defendant chose the right to be silent, consideration was necessary to the circumstances of the defendant, as he was looking after their children.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once on her left cheek, grabbed her by the throat and choked her and pushed her on the ground. Based on this evidence, and with consideration of the mitigating circumstances, namely that the defendant and the victim have separated, the defendant has continued to care for their three children, and therefore the court concluded the matter and imposed a prison sentence of three months against the defendant, suspended for one year.

17. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0386/19.DICMR
Composition of the Court	: Single Judge
Judge	: Edite P. dos Reis
Prosecutor	: Nelson de Carvalho
Defence	: Domingos dos Santos
Decision	: 6 months in prison, suspended for 1 year

On 31 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant ADS who allegedly committed the offence against his wife in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 27 May 2019, at 7:00pm, after the defendant had been drinking palm wine with the defendant's older brother, the defendant went looking for the victim in the home but he did not see her because she had went to her uncle's home. Some hours later the victim returned home and the defendant slapped her twice above her left eye which caused swelling and redness and kicked the victim once on the back of her neck, on the left side. When the victim went inside the defendant followed her inside and punched the victim many times on her right shoulder and back. The defendant took a belt and struck the victim on the left cheek and body which caused pain and redness.

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.

Presentation of evidence

During the trial the defendant totally confessed the facts set out in the indictment and stated that the victim left the home without telling the defendant and when the victim came home the victim hit their five year old child, so the defendant became angry and committed the assault against the victim as set out in the indictment. The defendant added that the victim went to stay in a shelter for two months and the defendant apologized to the victim and took her home. This case was resolved in accordance with East Timorese custom and the defendant gave US\$100.00 and a *tais* (traditional cloth) to the victim's parents. The defendant acknowledged that his behaviour was wrong.

In addition, the victim reinforced the facts set out in the indictment and confirmed the defendant's statement that they have reconciled and resolved the matter in accordance with East Timorese custom.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing simple offences against physical integrity characterized as domestic violence, but to deter the defendant from reoffending in the future, the prosecutor requested for the court to apply a fine against the defendant together with court costs of US\$ 10.

Meanwhile, the defence requested for the court to impose a suitable penalty against the defendant because the defendant confessed and collaborated with the court and also used his own initiative to resolve this problem in accordance with East Timorese culture.

Decision

After evaluating all of the facts, the court found that the defendant was heavily intoxicated and slapped the victim twice on her left eye, kicked the victim twice on the back of her neck, on the left side, and punched the victim many times on her right shoulder and back and took a belt and struck the victim on her left cheek and body.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and the case was resolved in accordance with East Timorese custom, the court concluded this matter and imposed a prison sentence of six months against the defendant, suspended for one year, and ordered the defendant to pay court costs of US\$10.00.

18. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0025/19.DICMR
Composition of the Court	: Single Judge
Judge	: Maria Solana da Conceição Fernandes
Prosecutor	: Gostavo da Silva
Defence	: Henrique João Mariz (private lawyer)
Decision	: Fine of US\$45.00

On 31 January 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AX who allegedly committed the offence against his wife in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that on 13 January 2019, at approximately 7pm, the defendant asked for US\$10.00 that was missing from his wallet and the victim told him that “Every day you say that the rental money is missing, you must be lying to me”. When he heard the victim’s statement the defendant punched the victim twice on her back, once on her hip, slapped the

victim once on her right cheek and slapped the victim once on her left cheek. The defendant also took the flat part of a machete and struck the victim twice in the head.

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.

Presentation 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 knew that his violent acts would hurt the victim and are against the law. The defendant also added that after this incident, the defendant did not hit the victim again and they have continued to live together as husband and wife.

In addition, 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 was guilty of committing the crime in accordance with the charges because he confessed his behaviour. Therefore, the prosecutor requested for the court to impose a suspended prison sentence on the defendant.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant regretted his actions.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim twice in her back, kicked her once in the hip, slapped her twice on her right and left cheeks, and took the flat part of a machete and struck the victim in the head.

Based on these proven facts, and consideration of the mitigating circumstances, namely that the defendant and victim have reconciled and are living together as husband and wife, the court concluded the matter and ordered the defendant to pay a fine of US\$45 with daily instalments of US\$1.00 for 45 days. If the defendant does not pay this fine then he will be sent to prison for 30 days as an alternative punishment.

19. Crime of attempted sexual abuse of a minor

Case Number : 0016/17.LIMBR
Composition of the Court : Panel

Judges : Afonso Carmona, Antonio José Fonseca and Evangelino Belo
Prosecutor : Claudino do Rosario (trainee prosecutor)
Defence : José da Silva
Decision : 5 years in prison

On 31 January 2020 the Dili District Court announced its decision in a case of attempted sexual abuse of a minor involving the defendant PN who allegedly committed the offence against the victim NdC, a minor of just 11 years of age in Liquica District.

Charges of the Prosecutor

The public prosecutor alleged that on 02 July 2017, at approximately 18:45, the victim's cousin was having a party at the victim's home. The defendant, who is the victim's neighbour, heard the sound of music and went to the marquee and sat inside. When the defendant saw the victim, the defendant asked the victim to sit on his lap and asked her about her parents. However, before the victim responded the defendant put his hands inside the victim's clothing and rubbed her sexual organs. Not long after the victim heard the witness ZAML call out to the victim to close their window and door, so the defendant let the victim go.

The public prosecutor accused the defendant of violating Article 172.s of the Penal Code on sexual abuse of a minor that carries a prison term of 5-15 years in prison as well as Articles 23 and 24 of the Penal Code on punishability of attempt.

Presentation of evidence

During the trial, the defendant used his right to remain silent. The victim confirmed all the facts in the indictment and stated that she felt shocked when the defendant put his hand inside her clothes and grabbed her sexual organs. At that time the victim tried to get off the defendant's lap but he held her tightly with one of his hands and the defendant only let her go when the witness ZMAL called out to the victim to close the window and door. The victim added that when the victim got off the defendant's lap, the defendant whispered in her ear and said "After you close the window, come back".

The witness ZMAL, who is the cousin of the victim, testified that she felt very shocked when she saw the defendant holding the victim with one hand and that his other hand was inside the victim's clothing touching her sexual organs. Therefore, the witness immediately called out to the victim to close the door and window. The witness saw this from about seven metres away.

Then the witness KEL, who is the cousin of the victim, testified that at that time it was her birthday and they were listening to music and her friends were dancing. The witness did not invite the defendant to take part in her birthday party. The witness also testified that she heard ZMAL call out to the victim to close the door and window and when she saw the victim she felt shocked because the victim was sitting on the defendant's lap and the defendant was committing

the aforementioned act against the victim. When she saw the defendant's behaviour, the witness immediately rang the victim's parents in Dili to tell them about this incident.

Final recommendations

The public prosecutor stated that during the examination of evidence the defendant chose to remain silent, but the victim and witnesses maintained all the facts set out in the indictment. In addition, the public prosecutor requested for the court to assess the defendant's statement made previously to the Public Prosecution Service where he confessed and acknowledged his actions against the victim. Therefore, the public prosecutor requested for the court to impose a prison sentence of six years against the defendant.

The public defender requested for the court to impose a lenient and fair penalty against the defendant, because the defendant was a first-time offender.

Decision

After evaluating all the facts, the court found that the defendant called out to the victim and put her on his lap. When the victim was sitting on his lap the defendant put his hand inside the victim's clothes and touched the victim's sexual organs. Based on the facts that were proven and consideration of the aggravating circumstances, namely that the defendant committed these acts against a minor, the court concluded the matter and sentenced the defendant to five years in prison

20. Crime of economic participation in business

Case Number	: 0945/12. TDDIL
Composition of the Court	: Panel
Judges	: Antonio Fonseca, Afonso Carmona and Evangelino Belo
Prosecutor	: Jacinto Babo
Defence	: Jose Pedro Camoês, Jose Guterres and Elisabet Pereira (private lawyer)
Decision	: Acquitted

On 20 January 2020 the Dili District Court conducted a trial for the crime of economic participation in business involving the defendant Vicente Guterres, the former Vice President of the National Parliament, João Rui, former Secretary General of the National Parliament, Francisco Soares Burlaco, former Director General of the Procurement of the Ministry of Finance who allegedly committed the crime against the State, in Dili District.

Charges of the Prosecutor

The public prosecutor alleged that in 2007 the National Parliament approved the 2008 State Budget and approved US\$ 910,000.00 to purchase 27 cars for the President of the National Parliament, as well as members of parliament within the chair of the parliament and 9 specialized

committees. However, in the 2008 rectification budget the National Parliament decided to add US\$ 1,400,000.00 to this amount of US\$ 910,000.00 for a budget of US\$ 2,310,000.00 to purchase Toyota Prados for the 65 members of parliament.

In March 2008 the Midori Motors company presented a proposal to the Director of the National Parliament National for the acquisition of 65 Toyota Land Cruiser Prados for a total of US\$ 2,171,000.00 with each car valued at US\$ 33,400.00.

According to the proposal, the payments would be split into two, with the first payment amounting to US\$ 910,000.00 and the second payment amounting to US\$ 1,261,000.00 which would be covered by the rectification budget.

In April 2008 the defendant Vicente Guterres was acting as the President of the National Parliament, because the President of the National Parliament at that time, Mr. Fernando Lasama, assumed the position of President of the Republic to replace Dr. Ramos Horta who suffered an injury because he was shot by a group led by Major Alfredo.

The defendant Vicente Guterres at that time prepared an order to accept the proposal from the Midori Motors Company and requested for single source procurement after receiving proposals from several companies.

In April 2008, the defendant João Rui Amaral together with the defendant Vicente Guterres signed single source procurement for the Midori Motors company with the reason that this company provided cars for the best price with a letter of justification sent to the defendant Francisco Soares Burlaco as the Director of Procurement in the Ministry of Finance and the Minister of Finance at that time Ms. Emilia Pires was also informed.

On 3 June 2008, the Midori Motors company together with the Ministry of Finance signed a contract to purchase 27 cars for the members of parliament for US\$910,000.00 with the requirement that these cars needed to be delivered on 30 June 2008 and this contract was also signed by the Prime Minister at that time Xanana Gusmão.

However on 4 July 2008, the Midori Motors company presented a letter of justification to the Ministry of Finance with the knowledge of the President of the National Parliament to say that the company could not purchase Toyota Prado cars because of a change of price in the market and therefore requested for them to be substituted with Mitsubishi Pajero cars with the same price as the Toyota Prados, namely US\$ 33,400 for each car. Therefore, on the same day the President of the National Parliament informed the Ministry of Finance that he accepted this change.

In November 2008 the defendant Francisco Soares Burlaco requested for the Directorate of Treasury within the Ministry of Finance to make a payment to the Midori Motors Company. In February 2009, the Midori Motors Company provided 65 cars to the National Parliament.

The prosecutor stated that the defendants jointly allowed the Midori Motors Company to provide Pajero Mitsubishi cars to replace the previous contract because they were cheaper than the Toyota Land Cruiser Prados. At that time the actual price of a Mitsubishi Pajero was US\$ 33,000, but the aforementioned company maintained the same price as a Prado which was US\$ 33,400. However, previously the Nova Brending and Training Unipessoal Company that had participated in the public tender to purchase these cars was able to provide each car US\$400 cheaper than the Midori Motors Company. However, the defendants decided to proceed with single source procurement from Midori Motors.

The defendants knew that only an international tender would be able to guarantee that the State could make the best acquisition in terms of price. The defendants' behaviour caused the State to suffer a loss of US\$ 10,800.00. Therefore, each of the defendants is obliged to contribute money to pay for this loss.

The prosecutor alleged that the three defendants violated article 3¹ of Law No. 31/1999 on the Eradication of the Crime of Corruption in conjunction with Article 299 of the Timor-Leste Penal Code on economic participation in business.

Presentation of evidence

During the trial, the defendant Vicente Guterres confessed to some of the allegations in the indictment that they did acquire 65 Toyota Prado cars for the members of parliament. However, regarding the substitution of Toyota Prados with Mitsubishi Pajeros, the defendant did not provide the acceptance but at that time it was the late Lasama de Araujo who gave authorisation because he had reassumed his role at the President of the National Parliament.

The defendant Vicente also stated that at that time the defendant João Rui produced a proposal from Midori Motors Company with the price of each Toyota Prado at US\$ 33,400.00 and the National Parliament through the Directorate of Procurement provided verification and agreed that this was the cheapest price at the time. This company also provided a guarantee that the cars would be delivered within two months. The defendant acknowledged that he himself proceeded with the single source procurement for the aforementioned company through a request to the

¹ Anyone with the aim of enriching oneself or another person or a corporation, abuses the authority, opportunity or facilities given to him related to this posts or position, which creates losses to the state finance or state economy, is sentenced to life imprisonment or minimum sentence of 1 (one) year and maximum sentence of 20 (twenty) years of the minimum fine of 50,000,000 Rupiah (fifty million rupiah) and maximum fine of 1,000,000,000,00 (one billion rupiah).

Ministry of Finance to prepare a contract with the company. The defendant said that at that time they decided to choose Toyota Prados because these cars are appropriate for the members of parliament to ensure their credibility as holders of sovereign office.

The defendant Francisco Soares Burlaco rejected all of the facts in the indictment and stated that the process for purchasing the cars for members of parliament followed the contract and this was signed by the President of the National Parliament at that time.

João Rui stated that the National Parliament prepared a contract with the Midori Motors Company because the amount of funds for the purchase of the cars for the members of parliament was the responsibility of the Ministry of Finance. Therefore, at that time the Ministry of Finance entered the contract with the aforementioned company. The defendant acknowledged that at that time he was involved because he went with the owner to the Midori Motors Company to Japan to inspect the factory where the Toyota Prados were being produced and he saw that these cars were of good quality. However, the defendant did not know about the decision to replace the Toyota Prados with Mitsubishi Pajeros because at that time the late Fernando Lasama made the decision.

The witness José Alexandre Kayrala Xanana Gusmão testified that at that time he was the Head of Government and therefore gave authorization and guidance to purchase cars for the members of parliament because the situation was urgent (there was an attack on the President José Ramos Horta) and also the security of the members of parliament was given consideration because they had no cars. Some members of parliament were riding motorcycles and some were catching public transport.

Xanana also acknowledged that there was a change from Prados to Pajeros because the witness received a letter from the former President of the Parliament Lasama about a request from the Midori Motors Company. The witness had no knowledge about other things.

Final recommendations

The public prosecutor stated that after the presentation of evidence there were no strong facts to charge the defendants under Article 3 of Law No. 31/1999 based on the principal of retroactivity in conjunction with Article 299 of the Penal Code on economic participation in business regarding the three defendants because the defendants and the nearly all of the witnesses stated that the President of the National Parliament at that time, the late Fernando Lasama de Araújo, decided to substitute Prados with Pajeros. Therefore, the Public Prosecutor requested for the court to acquit all the defendants.

The defence agreed with the request of the prosecutor because it was not the defendants who decided to replace the Toyota Prados with Mitsubishi Pajeros, but rather the late Fernando

Lasama de Araújo was the President of the National Parliament at that time and he decided to substitute the vehicles. This was based on the testimony of the witness as well as all the defendants.

Decision

After considering all of the facts, the court found that the Midori Motors company signed a contract with the Directorate of Procurement, Ministry of Finance, to purchase Toyota Pajeros valued at US\$ 33,400.00, whilst at that time the National Parliament approved funds of US\$ 2,310,000.00. The court found that that it had not been proven that the defendants had conspired with the Midori Motors company to gain an advantage from the decision to substitute the Toyota Prados with Mitsubishi Pajeros, because the decision to change the make of car was made by the President of the National Parliament at that time, Fernando Lasama de Araújo, who made the decision jointly in a meeting with the leaders of the parliamentary benches.

The court found that the defendants signed a contract with the Midori Motors company to purchase 65 Toyota Prados for the members of parliament in the second legislature totalling US\$ 2,310,000.00 but it was proven that after signing of an agreement and payment for the first phase the Midori Motors company informed them that the Toyota Prados were unavailable so they asked for flexibility to substitute the vehicles with Mitsubishi Pajeros for the National Parliament.

At that time the Midori Motors company sent a letter to the Directorate of Procurement, Ministry of Finance, and the aforementioned directorate immediately sent the letter to the National Parliament that was authorised by the late Fernando Lasama de Araújo, who was the President of the Parliament Nacional at that time, on the basis that the members of parliament really needed cars.

Based on these considerations the court decided that the defendants did not commit any acts that fulfilled the elements of Article 3 of Law No. 31/1999 in conjunction with Article 299 of the Penal Code on economic participation in business in relation to the allegation that the defendants obtained a benefit from substituting the Toyota Prados with Mitsubishi Pajeros.

The court concluded this matter and decided to acquit the three defendants from the charges of the public prosecutor. After the court announced out its decision the Public Prosecution Service stated that it would not lodge an appeal. Therefore, the decision of the court was considered final.

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