

Case: **1/2019-JP**



**EARHVD**

Equipa de Análise Retrospectiva de  
Homicídio em Violência Doméstica

# FINAL REPORT

**Domestic Homicide Review**

Report Authors

**José Manuel Palaio and Marta Silva**

Former and present Representative of the  
Public Administration body responsible for the  
area of citizenship and gender equality

Iceland  
Liechtenstein  
Norway grants

**CIG**  
COMISSÃO PARA A CIDADANIA  
E A IGUALDADE DE GÉNERO  
Presidência do Conselho de Ministros

  
**Bufdir**

[www.earhvd.sg.mai.gov.pt](http://www.earhvd.sg.mai.gov.pt)

# Contents

<b>01. The case and the information collected</b>	<b>04</b>
<hr/>	
A. The parties involved and the conviction	05
B. Information from the judicial process	06
B.1. Information collected	06
B.2. Enquiry statements	08
C. Previous closed enquires	08
D. Risk assessment	09
E. Forensic report	13
F. Information regarding the Health sector	13
<b>02. Timeline</b>	<b>15</b>
<hr/>	
<b>03. The Review</b>	<b>18</b>
<hr/>	
3.1. Criminal investigation	19
3.2. Risk assessments	21
3.3. Intervention of the health sector	26
<b>04. Conclusions</b>	<b>28</b>
<hr/>	
<b>05. Recommendation</b>	<b>31</b>
<hr/>	



The Review aims - under the terms of article 4-A of the Domestic Violence Law (Law no. 112/2019, of 16th September (legal regime applicable to the prevention of domestic violence, protection and assistance to its victims - LVD), in the wording of Law no. 129/2015, of 3rd January) - to understand the homicide reasons, circumstances and context, in order to draw conclusions that will allow improving intervention methodologies, to correct errors and overcome shortcomings in what concerns the action of public and private entities in preventing and combating violence against women and domestic violence.

As envisaged by articles 6, paragraph f) and articles 12, no. 3 of the Ministerial Order no. 280/2016, of 26<sup>th</sup> October, the reports of the Domestic Homicide Review Team (EARHVD) don't identify the geographical location of each case analysed, in order to respect the personal rights of those involved.

In this case report the Team was composed of its permanent members and a representative of the Republican National Guard, as a non-permanent member.





Domestic Homicide Review

# 01.

**The case and the  
information collected**



CHAPTER

# 01.

## The case and the information collected

### A. The parties involved and the conviction

The present report concerns the homicide of a 66 years old woman (**A**) by 69 years old man (**B**), both were of Portuguese nationality. The homicide occurred within the context of a relationship lasting approximately 46 years. The relationship had been tumultuous for several years, with episodes of violence escalating in the last years.

In the condemnatory decision, the court found that B "committed acts that constitute an illicit fact of simple homicide, provided for in article 131 of the Penal Code", but declared him "not liable to prosecution for such offences" because he suffered from "psychological anomalies (...) determinant of behavioural change (...) and the inability to assess situations and to position himself in accordance with that assessment". It was also declared that there was danger of committing other acts of the same kind (dangerousness). Consequently, it was determined that he would be subject to a "security measure of detention in a mental facility, for a period of three years, after which it will last for as long as criminal dangerousness persists or until the date on which sixteen years have elapsed since its onset (under the provisions of numbers 1 and 2 of article 91 and numbers 1, 2 and 3 of article 93, both of the referred diploma)".

The murder took place at the couple's residence.



## B. Information from the judicial process

### B.1. Information collected

The following information, relevant to the present review, was extracted from the facts established in the judgement of the judicial court:

- **B** was married to **A** for about 46 years, having 8 adult children in common.
- The couple emigrated for about 35 years. They returned to Portugal permanently when they retired.
- Since 2005, **B** was suspicious and convinced that **A** was “betraying him”, with delirious ideas of jealousy, which increased in intensity in 2016, this being one of the of the reasons for the couple’s recurrent disagreements.
- **B** presented, as evidence for his conviction that **A** had several extra-marital relationships, the arrangement of stones and sticks on the paths and the lights on the buildings, which he interpreted as signs that she sent to her “lovers” and as a ploy to unnerve him.
- Between late March and late August 2017, **B** was seen, on an irregular basis in a private psychiatric consultation, with the diagnosis of delusional jealousy disorder and depressive syndrome. He was medicated with antipsychotic and an antidepressant drug.
- The troubled relationship between the couple prompted reciprocal criminal complaints filed in June and December 2016, and November 2017, which gave rise to four enquiries (hereafter referred to as no. 1/2016, no. 2/2016, no. 3/2016 and no. 4/2017, reflecting their chronological sequencing).
- In September 2017, **B** abandoned psychopharmacological treatment, at a time when **A** returned from the country where they had worked and where she had been living since January 2017 at the home of one of their daughters.
- The couple’s conflicts persisted, with arguments recurring, especially at night, which on several occasions prompted the intervention of the only daughter of the couple who resided





- in the same town trying to calm **B** down in times of argument and convince him to accept the separation that **A** wanted.
- In November 2017, **A** left home again, this time to join that daughter, but returning about a week later. In January 2018, following further arguments, **A** again left the house and stayed overnight in another house in the same town, belonging to another daughter of the couple, who had emigrated.
- After three days, in the morning, **A** went to the house that had belonged to the couple. She made her way to the farm pens located at the property to tend for the animals that they bred.
- **B** also went to the pens and an argument ensued when they encountered each other. During this argument **B** went to another room, where he fetched a knife with a blade of about 20 centimetres. He then returned to the room where **A** was, approached her and struck her several blows with the knife, hitting her in the thorax, neck and head, causing several incisive and perforating wounds that caused her injuries that constituted a direct and necessary cause of death.
- Immediately after striking **A** with the knife, **B** ingested several tablets of the aforementioned antidepressant drug and called his daughter on the mobile phone, (she lived in the same town) saying: "*I killed your mother ... I'm dying ... I'm in the pens ... call [the other daughter]*".
- At the time of the events, and according to the International Classification of Mental and Behavioural Disorders, **B** suffered from the following psychiatric disorders: Delusional Disorder and Depressive Disorder.
- The paranoid delusional ideas, centred on the theme of jealousy in relation to **A**, determined alterations in **B**'s behaviour within the context of the relationship. These psychopathological alterations determined **B**'s total incapacity to assess, at the time of the commission of the facts, the unlawfulness of his behaviour, and to determine himself by that assessment.
- The neuropsychiatric disorders persisted Despite being subject to treatment. **B** continued to present alterations in the content of his thoughts, with delusional ideas on a paranoid theme of jealousy, not recognising such alterations (uncritical for changes in the content of thought) also presenting episodic passive suicidal ideation. From these disorders there is danger of **B** adopting behaviours such as the one described.



- B normally interacted with the neighbours. He lived in a rural area.

## B.2. Enquiry statements

In the statements documentation and steps taken by the PJ in the investigation phase, the following information is relevant to the present review:

- B was convinced that A had been “cheating on him with other men”, a situation of infidelity that never effectively occurred.
- B did not take the medication prescribed by the psychiatrist because he said “that he didn’t need it ... it was [she] who needed it”.
- B’s psychiatric follow-up only began about eight months before the homicide, because this was one of the conditions imposed by A to move back with him, and this happened at a time when she was living abroad.
- About a month after A returned from abroad and moved back in with B, he stopped taking his medication, became very upset and began to “repeatedly and psychologically torture” A, especially at night.
- A even consulted a lawyer with the intention of getting a divorce.

## C. Previous closed enquires

Four enquiries were opened prior to the homicide, as a result of complaints filed by A and by B, between June 2016 and December 2017. The reported facts were susceptible, in the MP’s view, of constituting the practice of the domestic violence crime, but were then closed due to lack of evidence (article 277, no. 2 of the CPP):

- In June 2016, the GNR went to B and A’s home, at her request. GNR filed the complaint in which she reported that she had been physically assaulted that night by B, who “insulted her with all vulgar words” and had already threatened her several times “saying that he would kill her” (Enquiry no. 1/2016).

In the enquiry, A was subjected to a medico-legal examination, having presented injuries on the neck, chest and left arm. The case was dismissed in July 2016 because





the offended, the perpetrator and the witness (their daughter) refused to testify, using the legal option provided for in subparagraph a) of paragraph 1 of article 134 of the CPP.

- In December 2016, **A** filed a complaint with the GNR stating that **B** “*tried to kill her with a firearm*”. After they had argued, **B** “*armed himself with a pistol (black, small)*” that he had fetched from his son-in-law’s house and, after having pointed it in her direction, “*fired two shots*” to the side, after which he took out and counted the remaining bullets, saying “*that he still had four but that one was for him*”. The victim recovered one of the ammunitions that remained at the scene (Enquiry no. 2/2016).
- The following day, **B** filed a complaint with the GNR against **A**, stating that, after an argument, **A** “*took a kitchen knife and put it against his throat, and also punched him in the mouth*”; at the medico-legal examination, he presented “*some injuries in the area of the mouth*” (Enquiry no. 3/2016).

Both enquiries were closed in March 2017 because **B** and her daughter refused to testify, using the legal faculty provided for in article 134, no. 1, paragraph a) of the CPP, as **A**’s testimony was not considered “*sufficiently credible (...), given that she is also under suspicion of having threatened B (...)*”.

- In November 2017, **B** filed a complaint with the GNR against **A** for having “*punched him several times in the chest*” after an argument and called him a “*coward, sick and a liar*” (Enquiry no. 4/2017).

The enquiry was closed in December 2017 because **A** and **B** refused to testify, using the legal faculty provided for in article 134, no. 1, paragraph a) of the CPP, and, also, no injury was verified in the medico-legal examination.

## D. Risk assessment

The following two tables present the domestic violence risk assessment results of the previous presented enquiries (RVD<sup>1</sup>): the first one regarding victim **A**, the second one regarding **B** (as victim).

<sup>1</sup> RVD 1L is applied when a domestic violence complaint is filed. RVD 2L is to be used at a later stage, when the risk is reassessed.



	RVD1L 1/2016	RVD2L 1/2016	RVD1L 2/2016
	Implementation date: June 2016	Implementation date: July 2016	Implementation date: December 2016
Source: victim A			
1. Physical violence against the victim	Yes	Yes	Yes
2. Physical violence against other family member	No	No	No
3. Attempt to strangle (try to choke), suffocate, or drown the victim or other family member	Yes	No	Yes
4. Sexual violence against the victim or other family member	Yes	No	Yes
5. Medical attention after an assault and or injuries have compromised the victim's normal daily activities or those of other family members	No	No	No
6. The number of violent episodes and or their severity has been increasing in the last month	Yes	No	Yes
7. Use/threat of use of some kind of weapon against the victim or other family member or has easy access to a firearm	No	No	Yes
8. Belief that the offender is capable of killing her/him or having her/him killed	Not Applicable/ Unknown	No	Not Applicable/ Unknown
9. Attempting or threatening to kill the victim or another family member	No	No	Yes
10. Stalking the victim, intentional intimidation, showing excessive jealousy and trying to control everything the victim does	Yes	Yes	Yes
11. Emotional/psychological instability of the offender and not being monitored by a health professional or not taking prescribed medication	No	No	Yes
12. Attempted or threatened suicide of the offender	No	No	No
13. Problems related to alcohol or other drug use, making normal daily life difficult (in the last year)	No	No	No
14. The offender has already been the subject of previous criminal complaints	No	No	Yes
15. Violation of court order aimed at protecting the victim	No	No	No
16. Significant financial problems or difficulty in keeping a job	No	No	No
17. Conflict related to child custody/contact	No	No	No
18. The victim separated, tried/intended to separate from the offender	Yes	Yes	Yes
19. The victim or someone in the household has special needs	No	No	No
20. The victim is pregnant or has had a baby in the past 18 months	No	No	No
Total positive answers:	6 (Medium Risk)	3 (Low Risk)	10 (High Risk)
	*Item 1. First episode 45 years	*Item 1. First episode 12 years	*Item 1. First episode 46 years
	** Item 18. Expressed	** Item 18. Expressed	** Item 18. Separated



	RVD1L Enquiry no. 3/2016	RVD1L Enquiry no. 4/2017	RVD2L Enquiry no. 4/2017
	Implementation Date: 20 <sup>th</sup> December 2016	Implementation date: 2nd November 2017	Implementation date: December 2017
Source: B, as a victim			
1. Physical violence against the victim	Yes	Yes	Yes
2. Physical violence against other family member	No	No	No
3. Attempt to strangle (try to choke), suffocate, or drown the victim or other family member	Yes	No	No
4. Sexual violence against the victim or other family member	Yes	No	No
5. Medical attention after an assault and or injuries have compromised the victim's normal daily activities or those of other family members	No	No	No
6. The number of violent episodes and or their severity has been increasing in the last month	Yes	Yes	No
7. Use/threat of use of some kind of weapon against the victim or other family member or has easy access to a firearm	Yes	No	No
8. Belief that the offender is capable of killing her/him or having her/him killed	Not Applicable/ Unknown	Yes	No
9. Attempting or threatening to kill the victim or another family member	Yes	No	No
10. Stalking the victim, intentional intimidation, showing excessive jealousy and trying to control everything the victim does	Yes	No	No
11. Emotional/psychological instability of the offender and not being monitored by a health professional or not taking prescribed medication	Yes	Yes	Yes
12. Attempted or threatened suicide of the offender	No	No	No
13. Problems related to alcohol or other drug use, making normal daily life difficult (in the last year)	No	No	No
14. The offender has already been the subject of previous criminal complaints	Yes	No	No
15. Violation of court order aimed at protecting the victim	No	No	No
16. Significant financial problems or difficulty in keeping a job	No	No	No
17. Conflict related to child custody/contact	No	No	No
18. The victim separated, tried/intended to separate from the offender	Yes	Yes	Yes
19. The victim or someone in the household has special needs	No	No	No
20. The victim is pregnant or has had a baby in the past 18 months	No	No	No
Total positive answers:	10 (High Risk)	5 (Medium Risk)	3 (Low Risk)
	*Item 1. First episode 20 years	* Item 1. First episode 0	*Item 1. First episode 2 <sup>nd</sup> November 2017
	**Item 18. Tried	** Item 18. Separated	** Item 18. Manifested



All risk assessments were carried out using as only source of information the victim's statements in each enquiry. The measures proposed and/or implemented are the following:

**1. Enquiries in which A was a complainant**

**1.1 Enquiry no. 1/2016**

In RVD1L it was proposed to the MP the application of a coercion measure to the accused and the implementation of a protection measure to the victim, reinforcing the police patrols around her residence.

In RVD2L was maintained the proposal of a coercive measure, but no protection measure was adopted because *"the victim, of her own will, is already living again with the accused and stated that she feels safe with her husband and does not fear that he may commit a new attempt against her physical integrity"*

**1.2 Enquiry no. 2/2016**

Only RVD1L was applied, having been proposed to the MP the application of a coercion measure to the accused and the implementation of the following protection measures: *"reinforce with the victim the importance of distancing herself from the offender", "provide for the seizure of weapons", "periodic contacts with the victim" and "reinforcing patrols around the place of the occurrence/residence"*.

**2. Enquiries in which B was a complainant**

**2.1 Enquiry no. 3/2016**

Only RVD1L was applied and it is exactly the same as the one regarding **A** in Enquiry no. 2/2016, applied on the same day, and it was proposed to the MP the application of a coercion measure to the accused and the following protection measures were adopted: *"reinforce with the victim personal protection guidelines (individual safety plan)", "periodic contacts with the victim" and "reinforce the patrolling near the place of the occurrence/residence"*.

**2.2 Enquiry no. 4/2017**

The application of a coercive measure to the accused was the only one proposed to the MP via RVD1L and RVD2L.





## E. Forensic report

In the Forensic Report concerning Enquiry no. 1/2016, it is stated that **A** reported the existence of a situation of violence in the couple, ending with the following warning: *The data ascertained and described above, namely in regard to the Family Context, is considered a situation of high risk by the Examiner, requiring, therefore, the adoption of psychosocial measures, in order to ensure her protection.*

## F. Information regarding the Health sector

Concerning A:

- There are constant records, dating back to 2010, stating clinical care for different trauma episodes (namely, "falls"): one in June 2010, and two in December 2017 (knee injury and leg fracture).
- Since 2015, she has been medicated with different types of sleep inducers.
- Since mid-2016, she has also been prescribed, successively, various anxiolytics.
- In July 2016, there are records for "Neurasthenia, Surmenage + Depressive Disorders + Other Psychological Disturbances" and in the following month "Debility and general tiredness" is mentioned, having a drug usually used as a "memory and attention stimulant" been prescribed.
- In November 2017, is mentioned a diagnosis of "Depressive Disorder", and an "antipsychotic (?) medication" was prescribed.

Concerning B:

- From 2007 to 2015, he had an average of less than four medical appointments per year, in 2016 he had 11, in 2017 he had 7 and in 2018 he had 2 (the last one being held the day before the homicide).
- In 2010, there is a record, for the first time, of an anxiolytic prescription, with no mention of the problem that justified it. From then on, over time, there is mention of the prescription of several drugs of the same type, until close to the date of the homicide.



- In 2017, there are two records of "*Anxious feeling/Nervousness/Tension*" and in November of the same year, also of "*Anxious Disorder/Anxiety State*".
- The day before the homicide, was recorded in the case file "*Requests psychiatric medication* (prescribed by a private psychiatrist?)", having been prescribed an antidepressant drug.

Domestic Homicide Review

# 02.

**Timeline**

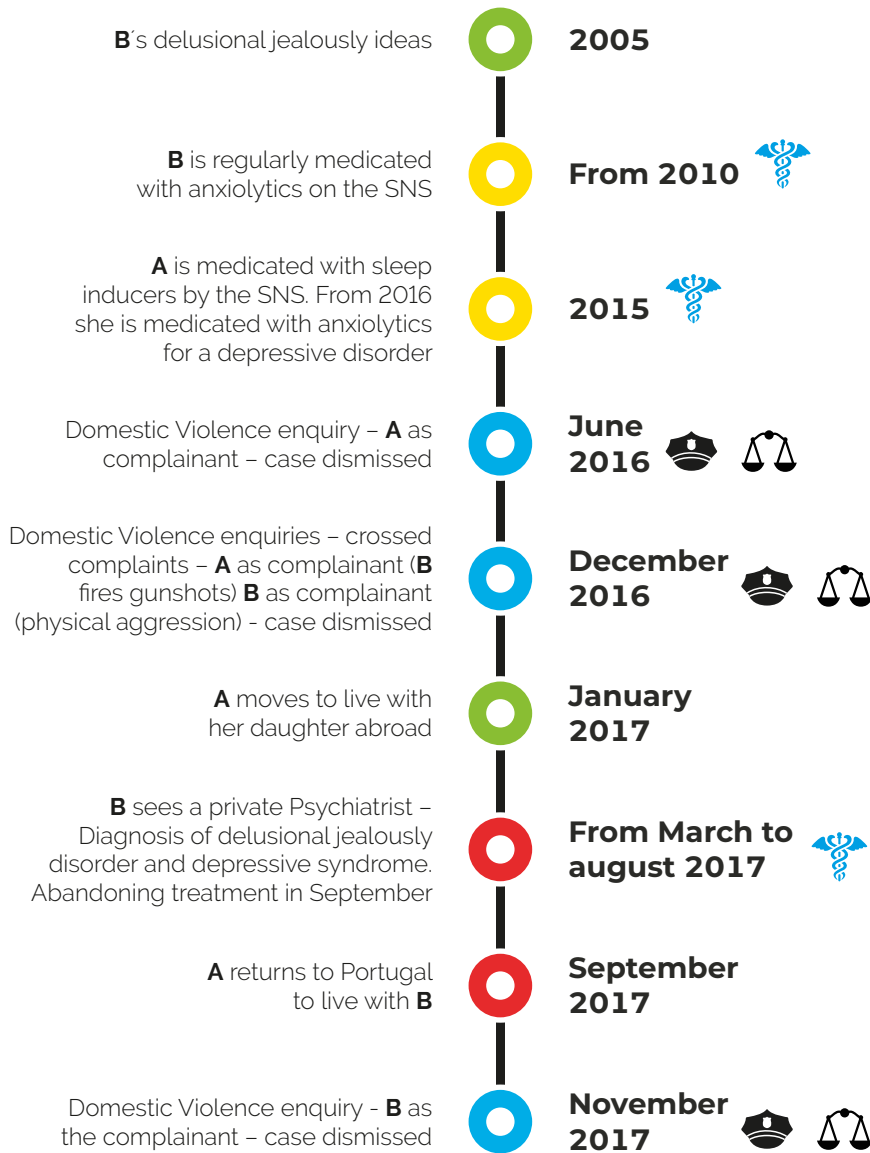




CHAPTER

02.

Timeline







**A** leaves home following  
further discussions



**January  
2018**

**B** requests psychiatric  
medication to the SNS



**The day before  
the homicide**



**B** is declared unaccountable  
and dangerous discussions



**16th January 2018**

**Legend**

- Beginning of relationship
- Background/risk factors
- Opportunities for intervention
- Homicide

- Contacts with Justice
- Contacts with Police Forces
- Contacts with Health
- Risk triggers



Domestic Homicide Review

**03.**

**The Review**



CHAPTER

# 03.

## The Review

The homicide under review concerns the death of a woman (**A**) by her husband (**B**), with whom she was married for about 46 years and experienced a troubled relationship, at least since 2005. Since 2016 **B**'s "delirious ideas of jealousy" became more intense. In 2016 and 2017 there were criminal investigations triggered by complaints from both parties. All these enquiries were dismissed. **A**'s death occurred in January 2018.

The review will focus on: (1) On the criminal investigation; (2) On risk assessment; and (3) On the intervention of the health sector.

### 3.1. Criminal investigation

In terms of article 262 (Purpose and scope of the Enquiry) of the CPP, the criminal enquiry comprises "the set of steps that aim to investigate the existence of a crime, determine its agents and their responsibility and to discover and collect the evidence, in order to decide on the prosecution".

When the facts may comprise the crime of domestic violence, the investigating bodies should promote and develop actions in order to understand and accompany the relational dynamics between the people involved, to protect the victim and ensure the neutralization of other possible violent conducts of the aggressor, in addition to investigating and gathering evidence about facts which might have already occurred.

In domestic violence crime facts occur very often out of the view of third parties and in a context where the victim is subject to great constraint, making it difficult for the victim to cooperate with the investigation. As so for these crimes the investigation cannot be limited to the identification and questioning of those involved and witnesses, it is necessary and required to use all legal means of preserving, obtaining and gathering evidences. The list of these methods is now systematised in *The Procedural Manual for Criminal Police Bodies within 72 hours following a maltreatment report in a*





*domestic violence context*<sup>2</sup>.

However, in the domestic violence enquiries involving **A** and **B**, the entities responsible for the criminal investigation acted without proactivity, even when faced with information that the conflicts between **A** and **B** had been going on for several years and the knowledge of the existence of previous accusations, which the MP added to the last dismissed enquiry.

On the other hand, the worrying indicators registered in the risk assessments should have raised, because of their importance and seriousness, the need to develop investigative activity with a view to seeking evidence that could embody them (namely, the indicators “attempt to strangle (try to choke), suffocate, or drown the victim or other family member” “use/threat of use of some kind of weapon” or increase in the last month of the “number of violent episodes and/or their severity).

The investigation of this crime cannot be based exclusively on sources that, due to their very dynamics and ambivalence of interpersonal relations in these circumstances, may lead to an evidentiary void. It is the MP and criminal police bodies responsibility to investigate, regardless of the cooperation that the victim is in a position to lend.

This is a crime against people, and the underlying conflict cannot justify or legitimise, quite the opposite, that adequate resources should not be allocated to the active search for evidence that goes beyond the statements of the parties involved and the testimony of witnesses appointed on their initiative.

It should be stressed that in the context of a domestic violence investigation, there is a significant difference between not having obtained sufficient evidence and having obtained evidence that the facts did not occur, and, in the former the MP should promote the support and protection of the victim, regardless of the final result of the enquiry. In particular in situations in which the results from the RVD use indicate a high risk or where risk factors pointing to the safety of the victim being affected by the accused’s conduct are identified (as is the case of the indicators mentioned above).

In this case, despite the MP having concluded that the evidence was insufficient in the various investigations, one cannot avoid the clear perception that something very

---

<sup>2</sup> [https://www.cig.gov.pt/wp-content/uploads/2020/06/172-20\\_MANUAL\\_ATUACAO\\_FUNCIONAL\\_Final.pdf](https://www.cig.gov.pt/wp-content/uploads/2020/06/172-20_MANUAL_ATUACAO_FUNCIONAL_Final.pdf)





disturbing was happening in the relational dynamics of this couple, and the possibility that the severity of the events might escalate cannot be excluded

Criminal intervention within the scope of domestic violence holds a social protection aspect. The law provides that the status of victim may be maintained at the victim's request as well as the "social support that has been established", namely after the closure of the enquiry (Article 24, no. 2 and 3 of the LVD). For the same reason, it is currently established by the PGR that the Public Prosecutor, "at the beginning of the enquiry, (...) should consider and promote communication, collaboration and articulation between all the services and entities that must intervene in the specific case, (...) with a view to support and care for the victim, family reorganization (...) and the rehabilitation of the offender" (Directives and general instructions for the implementation of the of the law on criminal policy for the biennium 2020/2022)<sup>3</sup>.

Having failed to do so during the course of the investigation of the current case, the MP should have called upon the intervention of the services and entities that could provide support and follow-up seeking to avoid the extension and aggravation of the conflict, when issuing an order to dismiss the case.

### 3.2. Risk assessments

In all enquiries GNR implemented a risk assessment having the victim as the only information source.

From their analysis there are some points that raise perplexity.

1. Regarding the enquiries where **A** was the complainant:
  - a. Items 3. (*Attempted strangulation and suffocation*), 4. (*sexual violence*), and 6. (*increase in the last month in the number of violent episodes and or their severity*) have a YES answer in RVD-1L of the first enquiry (Enquiry no. 1/2016), implemented in June 2016. And, inexplicably, present a NO answer in RVD-2L applied 20 days later, in July 2016. In the second enquiry (Enquiry no. 2/2016),

<sup>3</sup> Directive no. 1/2021-PGR, point I, c), 1.iii). Also, *recommendation 2.* of the Case Report no. 6/2018-MM, by EARHVD, dated 25th November 2020.



these same items are again answered with YES in RVD-1L.

**b.** Item 8. (*Belief that the offender is capable of killing her or having her killed*) has two answers Not Applicable/Unknown and one No, this one in RVD-2L of the first enquiry; and item 9 (*attempt or threat to kill the victim*) is answered negatively in RVD1L and 2L of the first enquiry and positively in RVD-1L of the second enquiry. Now:

- The answer *Not Applicable/ Unknown* is not valid for item 8, which will have to be answered positively or negatively (YES or NO).
- This answer given in the second enquiry is, on the other hand, clearly contradictory to the complaint, in which **A** states that "*her husband tried to kill her with a firearm*", which determined the Yes answer to item 9.
- The NO answer on item 9 of RVD-1L and 2L of the first enquiry contradicts the official report, which states that "*the accused has threatened the complainant several times saying that he would kill her*".

**c.** In RVD-1L applied in the first enquiry, the first episode of physical violence against the victim was recorded as having occurred 45 years ago and in RVD2L as occurring 12 years ago. In the second enquiry, the record indicates that it occurred 46 years ago.

**d.** In the second enquiry, item 12. (*Offender attempting or threatening to commit suicide*) was negatively answered, but in the complaint, it is written that **B**, after firing the shots, stated "*that he still had four (rounds of ammunition), but that one was for him*".

**2.** Regarding the enquiries where **B** was the complainant:

**a.** RVD-1L concerning the first investigation (Enquiry no. 3/2016) is exactly the same as the one relating to the complaint filed the day before by **A** (Enquiry no. 2/2016), except for the reference that the first episode of violence would have occurred 20 years ago. However:

- It is not clear from the content of the complaint or from other information source, the grounds for a YES answer as regards **B** as complainant, to items 3, 4, 7, 9, 10, 11, 14 and 18;



- In this situation the risk assessment raises greatest doubts as to its rigour and rationale. It resulted in the attribution, which everything leads us to believe that was unfounded, of high risk to **B**, equal to that attributed to **A**, thus conveying an incorrect vision of symmetry in that conflictual relationship, which may have negatively influenced the action taken.
- b.** In the second enquiry (Enquiry no. 4/2017), in RVD-1L it is pointed out that he is convinced that **A** is capable of killing him or having him killed (item 8.), and then in RVD-2L it is stated that he is NOT. And, now that there were grounds for a YES answer to the question as to whether the offender had been the subject of previous criminal complaints, the recorded answer is NO.
- 3.** The criteria of the number of factors marked with YES was always used to establish the level of risk, without any consideration being given to the consistency of the provided answers nor to the predictive importance of the danger of the factors identified. And the same conclusion of medium risk was reached, in two very different scenarios:
- *In the assessment, the following factors were identified besides physical violence 3. (Attempted strangulation, suffocation, drowning), 4. (sexual violence), 6 (increased severity of violent episodes in the last month), 10. (persecution of the victim intentional intimidation, showing excessive jealousy and trying to control everything the victim does) and 18. (separation, intent or attempt) - RVD-1L of Enquiry no. 1/2016; and*
  - *In the evaluation where YES was indicated, besides physical violence, factors 6. (Increase in severity of violent episodes in the month), which in RVD-2L was answered NO, 8. (Belief that the offender would be capable of killing him or having him killed), which in RVD-2L was also answered NO, 11. (emotional/psychological instability) and 18. (separation, intention or attempt) were identified - RVD-1L of Enquiry no. 4/2017.*

The implemented risk assessment analysis cannot fail to raise the doubts about the consistency of their results, about the adequate weighting of the identified factors, suggesting their bureaucratic implementation.

The above aspects, which allow us to state that the assessment has not fulfilled its purpose of accurately identifying the factors and the level of risk for the victim, have influence on the adequacy, quality and implementation of the established protection measures.



In the documentation contained in the referred enquiries, it was also not found information on the procedures regarding its implementation, and possible incidents, necessary to know and control its effectiveness.

From the above, it can be noted that:

- a. The existence of contradictions between the risk assessments that implemented at different moments, including in the same enquiry, particularly with regard to static risk factors, that is, those which once occurred/confirmed, do not undergo relevant changes;
- b. Failure to point out risk factors that were explicitly mentioned in the complaint filed or which were known to the criminal police body;
- c. The omission of response to factor 8 (belief that "*the offender is capable of killing him/her or having him/her killed*") which by its nature and relevance always requires an affirmative or negative answer;
- d. The equal completion of the forms applied in the case of reciprocal accusations, when it is clear from the information available that the risk factors indicated in one of them are unfounded (concerning **B**);
- e. The lack of any correlation between relevant and serious events mentioned in the RVD and the rationale, initiative and investigative effort.
- f. The generic approach not always adjusted to the identified risk factors of the surveillance and security defined measures.

The aspects referred to above indicate a poorly informed and under-invested fulfilment of the RVD, whether from a technical point of view, or in terms of the allocated resources, or even in terms of information sources mobilisation. The result was a poorly judicious evaluation, which compromises its own credibility and questions the training of the professionals who implemented it.

In case reports no. 1/2017-AC (October 2017), 4/2017-VP (September 2018) and 2/2018-JP (December 2019), EARHVD has already formulated recommendations that addressed the need to promote the improvement of the implementation of risk assessment procedures, which are hereby reaffirmed:





- Victim risk assessment (RVD-1L and RVD-2L) must be implemented by specialised professionals with experience in the field of domestic violence. If this is not deemed feasible in the specific case, its implementation must be supervised by a specialised professional, within a period not exceeding 48 hours.
- Protection measures and the victim individual safety plan, as well as the incidents associated to its implementation, must be recorded in a specific document, which will be attached to the criminal proceedings, so that it will be possible to know and control their effective implementation.
- Training on violence in intimate relationships, violence against women and domestic violence must be reinforced, in order to enable frontline police forces professionals with knowledge and skills that will improve their understanding of the characteristics and dynamics of these behaviours and increase the quality of their actions, namely in attending and supporting the victim, in the evidence collection, risk assessment and the definition and implementation of the security plan.

On the 28<sup>th</sup> June 2019 The Multidisciplinary Technical Commission for the Improvement of Prevention and Combating of Domestic Violence (CTM) considered “necessary to open the reflection on the possible need to review the current instrument for the assessment and re-evaluation of risk of revictimization, evaluating the experience of its application and taking into consideration the legal changes that have supervened since its creation”. The Council of Ministers Resolution no. 139/2019, of 18<sup>th</sup> June 2019 (DR, I Series, 19<sup>th</sup> August 2019), based on the proposals in that report, identified as one priority action, “the review of the model for the victim risk assessment and management”, which should include “indicators concerning children and young people, and other victims in situations of increased vulnerability”.

More recently, Parliament expressed itself in the same direction, by approving a *resolution* that “Recommends to the Government to reformulate the domestic violence risk assessment, in order to ensure greater protection for the victims” (Parliament Resolution no. 81/2021, of 25<sup>th</sup> February (DR, I Series, 18<sup>th</sup> March 2021).

Considering:

- The great importance of risk assessment and management in a criminal phenomenon that is often not occasional and whose behaviour often increases in frequency, intensity and dangerousness;



- The time already elapsed since the creation of RVD-1L and 2L (2014);
- The indispensability of evaluating the experience of their application;
- The broadening of its users; and
- The evolution in knowledge and legislation,

there is an urgent need to start the already anticipated process of assessing the use of the domestic violence victims risk assessment and management model, in order to update and improve it, as well as to increase the qualification of those who use it.

### 3.3. Intervention of the health sector

In the information collected in the health sector, it appears that between 2010 and 2017 **A** was assisted due to several episodes of traumatic injuries, attributed to “falls”, and that **B** was prescribed anxiolytics from 2010 onwards, and that both had since 2015 frequently visit their common SNS family doctor to manifest anxiety problems, depressive disorder and other psychological disorders. And it should be noted that the killer’s conduct was directly associated with altered behaviour arising from “delusional and depressive disorders”.

It can now be seen that there is a coincidence in time between the recurrence of these complaints in recent years and the reported assaults and threats that led to the initiation of criminal proceedings. There is no information about the investigation about the possible existence of an atmosphere of conflict in that marital relationship, despite the fact that the health professionals were in a privileged position to identify it early on, thus triggering the necessary and proportional means of intervention.

It is important to reaffirm, now, recommendations that EARHVD has already formulated:

1. In October 2017, advocating that “health care providers should systematically screen for the risk of domestic violence and that in all screening processes, objective questions should be asked about the occurrence of violence within the family, and the necessary record should be made - in accordance with the Technical Standards “Interpersonal Violence - Approach, Diagnosis and Intervention in Health Services” of the Directorate-General for Health” (Case report no. 1/2017-AC); and



2. In September 2018, advocating that situations where there are indications of physical or psychological violence "should be referred (...) to the Adult Violence Prevention Team- EPVA of the respective health units, which can develop privileged exchanges with other entities within the National Support Network for Domestic Violence Victims and with the Judicial Entities" (Case report no. 7/2017-VP).

Still on this point, it is pertinent to highlight the importance of enhancing the Clinical Record of Violence in Adults (RCVA), developed in the meantime by the Directorate-General of Health, under the scope of the National Programme for the Prevention of Violence in the Life Cycle, which allows the record and data analysis and information sharing (interoperability of information between institutions and different care levels within the SNS) on situations reported in healthcare, available to doctors and nurses from the Electronic Health Record. These professionals must register into the system any form of victimisation in adults.



Domestic Homicide Review

# 04.

**Conclusions**





CHAPTER

# 04.

## Conclusions

1. **A** and **B** were married for approximately 46 years. They experienced a troubled relationship, at least since 2005, date from which **B** began to manifest delirious ideas of jealousy that increased in intensity during 2016, this being one of the reasons for the couple's recurrent disagreements.
2. At the time of **A**'s homicide (January 2018), **B** was diagnosed with Delusional Disorder and Depressive Disorder, centred on the theme of jealousy towards **A**, which determined changes in his behaviour within the conjugal relationship, as well as in the assessment of the illicit nature of his behaviour and in the capacity to act upon that assessment. He was consequently considered unable to be held criminally liable, and subject to a security measure of detention in a treatment establishment, because there was a danger that he would commit another crime of the same kind.
3. **A** was assisted, between 2010 and 2017, for several episodes of traumatic injuries attributed to "falls", and **B** was prescribed anxiolytics from 2010 on; from 2015 onwards, the couple made frequent visits to the same family doctor in the SNS, due to issues as anxiety, depressive disorder and other psychological disorders, without there being any record that they were asked about a potential conflictive environment affecting their conjugal relationship.
4. Between June 2016 and December 2017, **A** filed two domestic violence complaints against **B** and **B** filed also two other complaints of the same nature against **A**. All the enquiries were dismissed, and the entities responsible for the criminal investigation acted without proactivity and without having developed an effective investigation to collect evidence.
5. In view of this sequential complaints, it was impossible not to have a clear notion that something very worrying was happening to the dynamics of this couple's relationship, as well as the possible escalation of events that sustained the domestic violence context. However, given the closure of the enquiries for lack of sufficient evidence, the MP did not call for the intervention of services and enti-



ties that could provide the support and follow-up to avoid the prolongation and escalating of the conflict.

6. The risk assessment procedures were applied in an ill-considered and uninformed manner, with contradictory results, and in some cases inconsistent and incomplete that did not allow for proper risk management. The surveillance and security measures contained therein were not always appropriate in face of the risk and the identified factors. On the other hand, there is no record of their effective implementation.



Domestic Homicide Review

# 05.

**Recommendation**





CHAPTER

# 05.

## Recommendation

As a result of this review, the EARHVD presents the following recommendation to the government:

- Urgency should be given to the process of reviewing the implementation of the domestic violence victim risk assessment and management model, provided for in point v) of paragraph c) of no. 1 of the Resolution of the Council of Ministers no. 139/2019, of 19th August, with a view to update and improve it. It is also urgent to qualify those who use it.

Lisbon, 16<sup>th</sup> April 2021

**Representative of the Public Administration body responsible for the area of citizenship and gender equality**

Dr.<sup>a</sup> Marta Silva (Report Author)

**Representative of the General Secretariat of the Ministry of Internal Affairs**

Dr. António Castanho

**Representative of the Ministry of Justice**

Dr.<sup>a</sup> Maria Cristina Mendonça

**Representative of the Ministry of Health**

Dr.<sup>a</sup> Odete Mendes

**Representative of the Ministry of Labour, Solidarity and Social Security**

Dr.<sup>a</sup> Aida Marques

**Representative of the Republican National Guard**

1<sup>st</sup> Sargent Marlene Ferreira de Freitas (Non-Permanent Member)





## Approval of the Case Report No. 1/2019-JP

(Article 6, d), e) and f) of Ministerial Order no. 280/2016, of 26<sup>th</sup> October)

1. I hereby declare that all the members of the EARHVD agree with the contents of the previous report regarding the review of this case.
2. This dossier management was, from the outset, responsibility of Dr. José Palaio, who was the representative in the EARHVD of the Public Administration body responsible for the area of citizenship and gender equality until 30<sup>th</sup> September 2020. Dr. José Palaio participated in the preparation, discussion and approval of the report ensuring the continuity of the process, which on that date was already at a very advanced stage.
3. The review of homicides in a domestic violence context aims to contribute to improve the performance of the entities/services involved in the different aspects and levels of intervention in the domestic violence phenomenon, particularly for the implementation of new preventive methodologies.
4. This specific case analysed the intervention of the health services and the entities responsible for the criminal investigation, with particular focus on the risk assessment procedures and their application in the specific case.
5. The review procedure defined in the EARHVD rules of procedure was respected.
6. The conclusions are based on the facts. The report is objective, reasoned and clearly written.
7. The recommendations presented are relevant and timely, in the light of the established facts and the identified shortcomings in the case.

For all the above reasons, I approve the Report.

The Report must be communicated to (...)

In due course, the adapted version of this Report will be uploaded to the EARHVD website.

23<sup>rd</sup> April 2021

Rui do Carmo  
Coordinator of EARHVD