

Case: **2/2017-JP**



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

FINAL REPORT

Domestic Homicide Review

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Domestic Homicide Review

01.

**Identification
of the case**



CHAPTER

01.

Identification of the case

The present report concerns the review of the case no. (...) of the 1st Section of the Criminal Porto Central Court, in which a conviction decision was issued on the 1st of June 2016, confirmed by a final decision of the Supreme Court of Justice on the 26th October 2016, in which the defendant was convicted of material authorship and effective concurrent commission of a crime of aggravated murder, in the consummated form, envisaged and sanctioned by the following articles of the Penal Code, articles 131 and 132, no.1 and no.2 paragraphs b) and j), and of a crime of domestic violence envisaged and sanctioned by article 152, no.1 paragraph a), in the partial sentences of 16 years and 1 year and 6 months of prison, respectively, and in cumulative sentence of 16 years and 6 months of imprisonment.

The homicide in the domestic violence context, reviewed in this report, occurred on the 4th November 2015.

The review procedure was initiated on the 17th April 2017, and the Domestic Homicide Review Team (EARHVD) was composed only of its permanent members.

As there was no intervention by the territorially competent police force in the area where the homicide occurred, no non-permanent member was appointed to represent it.

This report aims to:

- Analyse all the information gathered in order to have a more complete knowledge of the circumstances of time, way and place in which the facts occurred, the pattern of behaviour of both the victim and the perpetrator, and the factors that influenced it, as well as the response given by the services, entities and organisations involved.
- Develop a technical and scientific diagnosis of the use, rejection or alienation of



the responses to prevent domestic violence and to protect its victims.

- Draw conclusions that allow the implementation of new preventive methodologies.
- Elaborate recommendations to improve procedures, aiming to reduce the risk of other episodes of the same nature.



Domestic Homicide Review

02.

Data sources



CHAPTER

02.

Data sources

According to the provisions of paragraphs 4 and 5, from article 4-A, Law no. 112/2009, of 16th September (diploma establishing the legal framework applicable to the prevention of domestic violence, protection and assistance to its victims, hereafter identified as the Domestic Violence Law -LVD), the analysis focused on the following elements:

Documentation included in the judicial process:

- Domestic Violence Enquiry no. (...).
- Police Report that leads to the Process no. (...).
- Enquiries and reports made in this context.
- Forensic Autopsy Report from the National Institute of Legal Medicine and Forensic Sciences (INMLCF), dated 17th February 2016.
- Indictment.
- Social Report from the Directorate-General for Reintegration and Prison Services (DGRSP), of 18th April 2016.
- Forensic Psychiatry Report from the INMLCF, of 18th May 2016.
- Judgement by the Porto Central Collective Court - 1st Criminal Section, in Case no. (...), of 1st June 2016.
- Judgement by the Supreme Court of Justice, in Case no. (...), of 24th October 2016.

Documentation from other entities:

- Clarifications from the Public Prosecutor's Office.



From the requested information by the representatives of the EARHVD to services and entities in the areas of justice, health, social security, internal administration and citizenship and equality, no additional data relevant to the specific case was obtained.



Domestic Homicide Review

03.

Collected Information



CHAPTER

03.

Collected Information

In the terms foreseen in no. 4 of article 10 of Ministerial Order no. 280/2016, of 26th October, which regulates the procedure regarding the domestic homicide review, all the data that would allow the identification of the parties involved in the judicial process was eliminated in the analysis and subsequent report. Consequently, in the present report the victim will be referred as **A**, and the perpetrator as **B**.

3.1. Victim characterization (A)

- Gender: Female.
- Date of birth: 14th November 1959 - 55 years old.
- Marital status: Married to the perpetrator since 30th January 2015.
- Nationality: Portuguese.
- Profession: Gardener.
- Employment situation: Employed
- Municipality of residence: (...)

3.2. Perpetrator characterization (B)

- Gender: Male.
- Date of Birth: 5th November 1973 - 42 years old.



- Marital status: Married to the victim since 30th January 2015.
- Nationality: Portuguese.
- Profession: Construction worker.
- Employment situation: Unemployed.
- Municipality of residence: (...)

3.3. Matter of fact proven in legal proceedings (summary)

- **A** and **B** met in November 2014 maintaining a romantic relationship since then. **A** and **B** got married on the 30th January 2015.
- They set up their residence in (...), in a house belonging to **A** and in which she already lived before meeting **B**.
- On an unspecified date, **A** and **B** had a disagreement, and **A** ended her relationship with **B**.
- **B** left the house on the 23rd September 2015. Outside and in the vicinity of the house, **A** and **B** got involved in an argument and in a physical dispute, in which **A** pushed **B** and **B** punched **A** in the face.
- As a result of this aggression, **A** was left with abrasions and bruises on her face.
- Afterwards, **B** was outside and said to **A**: *"You are not going to have peace, I am not going to leave your door, I am going to kill you, bitch"*.
- From that date on, **B**, not accepting the separation, started to monitor and control **A**'s movements, going to her house on foot or by bicycle.
- In addition, **B** began to call **A** regularly, insisting that she accepts him again.
- The level of **A**'s fear led her to set up traps all around her house, such as connecting an electric wire to the blinds and putting wooden locks on the windows, in order



to prevent **B** from stealthy entering her house.

- On 2nd November 2015, at an unspecified time, **B** rode a bicycle to **A**'s house and, after a brief and serious exchange of words, uttered the following expression: *"You will not make it to Christmas, I will kill you and your partner"*.
- On 4th November 2015, at approximately 6h30pm, **B** went to **A**'s residence and entered the house patio, hiding inside the water tank, located on the grounds.
- After about five minutes, **A** left the house in her car, having returned soon after, at which time she went to the kitchen door after having parked the vehicle.
- At that moment, **B**, armed with a stick he had picked up in the grounds of the house, struck **A** on the head.
- Surprised, **A** ran to the house yard, and **B** followed her, hitting her on the head again and **A** kept running towards the house yard.
- As **A** fell on the ground, **B** hit her on the head a third time, more violently, leaving **A** inanimate.
- In a continuous act **B** took the keys to the kitchen door, which had fallen on the ground, and opened the door.
- Then, he grabbed her by the back, dragged her inside the house and left her lying on the floor.
- After that, he left the house through the kitchen door, which he locked from the outside, sliding the keys under the door.
- By his conduct, **B** caused cranio-meningoencephalic injuries to **A**, which were the direct and proper cause of her death, and she was found lifeless on the 7th November 2015, at 07.40 pm, inside the house.
- By striking **A**'s head, leaving her inanimate and without medical assistance, **B** acted freely, deliberately and consciously, with the achieved purpose of taking her life, only moved by jealousy and because he did not accept that she did not want to resume the marriage.



- He also acted with premeditation of his acts, entering the grounds of **A**'s house without her consent and knowledge, remaining hidden until her arrival and hitting her on the head, without her having anticipated his presence.
- **B** shows great difficulty in tolerating frustration, which leads him to manifest aggressive behaviours as a way to manage the emotional tension.
- Over the years, **B** has always lived with his parents, keeping the same housing after his parents' death, having returned to the house that belonged to them when the relationship ended.
- Over the years, **B** never established a significant emotional relationship, not even an intimate one, having a discourse marked by beliefs and convictions regarding the role of women in society, considering that he had never met a woman who fit into what he defined as *"a honest woman, who doesn't mess around with other men, who only wants that one and not others, and wants to build a life together, as a couple, with that man"*.
- **B** describes that the relational dynamics was marked from the outset by some difficulties, referring to his conviction that **A** would have maintain contacts and some type of extra-marital relationship with a previous partner.

3.4. Other relevant information to the review process

Judicial process - Investigation phase

- On September 29th 2015, **A** personally went to the Public Prosecutor's Office from (...) and filed a verbal complaint against **B**. In this complaint, regarding the part concerning the reported facts, only the following was recorded: *"Assault and threats"*.
- On October 08th 2015, the Public Prosecutor from (...) issued an order with the following content: *"Notify **A** to clarify for the records the content of her criminal complaint. Deadline: 10 days"*.
- On October 22nd 2015, **A** replied in writing to the Public Prosecutor's Office from (...), stating the following: *"On September 23rd 2015, my husband (**B**) assaulted me, punching and pushing me, injuring me in my left eye, mouth and left part of the chest, and threatening me, such as: I will blow your head off if you file a complaint against me"*.



- On October 26th 2015 the Public Prosecutor from (...) issued an order with the following content: *“Contact **A** by phone in order to summon her to this section of the Department of Investigation and Prosecution (DIAP) to be questioned about the reported facts. On this day I will be informed of this visit in order to evaluate if we are facing the practice of a domestic violence crime and if so to assign **A** the status of victim”.*
- On 28th October 2015, the Court Clerk wrote a term in the file stating that, despite several attempts, it was not possible to contact **A** by telephone, summoning her by post mail to be interviewed at 2 pm on November 4th 2015.
- On November 4th 2015, **A** was interviewed by the Court Clerk, who prepared a statement report. The statement includes the following:
 - **A** married **B** on January 30th 2015.
 - About two months later she discovered that **B** had covered up an illness he was suffering from and she told him that he would start sleeping in another room.
- From that date on, broken objects began to appear in the house, and **B** was asked to leave the house.
- On September 21st 2015, **B** came to the door of her house on a bicycle and said: *“You said you never wanted another man and I saw your car parked outside your partner’s house”*, to which she replied: *“I go there to get water because he doesn’t charge me any money for that”.*
- Then **B** told him: *“You won’t make it to Christmas. I’m going to kill you and your partner”.*
- On September 23rd 2015, they engaged in an argument and physical altercation, in which **B** was stricken with a shoe, and responded with several punches to her face, which resulted in abrasions and bruises, for which **A** received medical treatment.
- On that same day, **B** left the house and from then on called her every day, several times a day, saying that he would not give her peace, day or night, and she would never have peace until she accepted him again.
- There is no indication in the file that the prosecutor was aware of this action/report at the time.



- No victim status was granted to **A**, no risk assessment was carried out, and no victim protection measures were considered.
- On November 5th 2015, the prosecutor issued an order that read as follows: *“On a date available in the agenda, proceed to the constitution of **B** as a defendant, followed by interrogation and subjection to Statement of Identity and Residence”.*
- On November 6th 2015, the public prosecutor’s civil servant notified B, in writing, he would be questioned on December 2nd 2015.
- On November 8th 2015, the Republican National Guard reported finding **A**’s body, and time/date of death at 09.04 pm on November 7th 2015.

3.4.1. Clarifications provided by the Public Prosecutor’s office

In view of the data collected in the review process, according to article 5, paragraph 5 of the LVD and article 10, paragraph no. 4 of the Ministerial Order no. 280/2016, of October 26th, the EARHVD requested information on July 17th 2017, from the Public Prosecutor’s Office and on November 7th 2017 an answer was provided.

The questions asked and the answers obtained are transcribed below.

Question asked by EARHVD

Are there any recommendations/ instructions directed to the employees of the services of the Public Prosecutor’s Office on how domestic violence victims should be assisted? The requirements/concerns regarding the information collection from victims who go in person to these services, allow a complete and precise formulation of the complaint? In the specific case, what was the reason for the initial complaint not being made at the time it was filed?

Answer provided by the Public Prosecutor’s Office

At the time of the facts, in (...), there were no recommendations/instructions for court clerks on how to assist domestic violence victims, nor, consequently, concerns regarding the information collection to better provide a fact report underlying the complaint.



Currently, the officers are instructed by the public prosecutors to assist the domestic violence victims who present themselves at the Public Prosecutor's Office, and in the most urgent cases they should be immediately presented to the Public Prosecutor responsible.

It was not possible to clear the reasons why the initial accusation was not carried out, as it was evident that it was extraordinarily empty and did not even show the relationship that the accused had with the victim. It has not yet been possible to clear the reasons why the complaint was admitted under these circumstances.

Question asked by EARHVD

Is there any hierarchical determination as to who, in an inquiry directly conducted by the Public Prosecutor's Office, should conduct the hearing of a domestic violence victim of, namely whether should be the Public Prosecutor or the Court Clerk?

Answer provided by the Public Prosecutor's Office

Currently in the services of the Public Prosecutor's Office of DIAP of (...), as in all the districts covered by the areas of the Courts of Appeal of Porto and (...), the domestic violence victims are inquired by the Public Prosecutors, and it is also true that some departments have specialised sections on domestic violence and in the services where the implementation of specialised sections is not justified, are designated Public Prosecutors who are exclusively in charge of this type of crime

Question asked by the EARHVD

There is no mention in this case file regarding a risk assessment, protection measures or clarification for the victim, also the victim was not informed that she was given the status of victim. We request confirmation that none of these actions were actually taken, or if, on the contrary, they were, we would be grateful if you could send us documentation to prove it.

Answer provided by the Public Prosecutor's Office

In the present case, due to the uniqueness of the situation, the victim was killed on the day she made her first statement and the scant evidence available from the investigation did not allow a risk assessment, so the victim did not benefit from the due status.



Question asked by the EARHVD

From reading the records, it appears that the victim was interviewed on November 4th 2015 and the defendant was summoned for questioning on December 2nd 2015. We would appreciate some clarification as to whether there is any established procedure regarding the investigation plan in domestic violence situations, specifically regarding the sequence of hearings/interviews of the defendant, the victim and witnesses, as well as deadlines.

Answer provided by the Public Prosecutor's Office

The investigation plan in any inquiry is established on a case-by-case basis by the Public Prosecutor considering the specificities and objectives of the case. However, in cases of domestic violence, the Public Prosecutors are aware of the need to design the investigation plan considering the specificities of each case and to anticipate possible reactions from the perpetrators, protecting the victim.

In the Public Prosecutor's Office response, it is also stated that *"the functional performance of the Public Prosecutors has been the subject of particular attention with regard to the standardization of procedures and good practices"*, being referred the content of hierarchical instruments issued by this entity, among which, according to the facts under review and the dates of occurrences, the EARHVD highlights:

- Directive no. 2/2015 of November 24th (Generic Directive and Instructions for the Implementation of the Criminal Policy Law for the 2015-2017 Biennium), which states that, as the crime of domestic violence is a priority investigation crime, public prosecutors should, in particular:
 - Give priority to the corresponding procedural processing in order to reduce the duration time of the investigation – no.2, i);
 - Strengthen the effective direction of the investigation by expressly determining, from the outset, its object and outlining an investigation plan – no. 2, iii);
 - Carry out in person the most relevant due diligences, namely the interrogation of the accused and the questioning of particularly vulnerable victims – no.2, vi);

Instruction no. 1/2014, of 15th October (Specialised distribution of Domestic Violence Crimes, abuse and against sexual self-determination), in which it is established:



- *"Inquiries concerning the criminal phenomena of domestic violence, abuse and/or against sexual self-determination should be assigned to specialized sections or to specific Public Prosecutors, through concentrated distribution" – no.1;*
- Respecting *"tendentially the principle of specialisation"* even when the specific characteristics and conditions of the district may lead, exceptionally, to *"a different distribution of this type of enquiry"* no.2.

Instruction no. 2/2014, of October 30th (Inquiries into crimes of domestic violence. Domestic violence risk assessment form for use by the Police Forces), in which it is determined that "when the report for a crime of domestic violence is drawn up at the Public Prosecutor's Office or the complaint is filed there, the public prosecutor may apply the RVD risk assessment" – no.7.

3.4.2. Medical-Legal Autopsy Report from the INMLCF, dated February 17th 2016

Conclusions of the report:

In view of the necropsy data, the information contained in the CODU/INEM form and the service information from the Judiciary Police, **A**'s death was due to traumatic cranio-meningoencephalic injuries.

Traumatic injuries were identified at the level of the upper limbs which, due to their location (posterior face of the forearms and dorsum of the hands), are compatible with defence injuries from the victim.

The traumatic injuries were produced by a blunt mechanism or acting as such, as may have been due to the action of a piece of wood, known as a " wooden beam", inflicted against **A**, as stated in the service information from the Judiciary Police.

The toxicological test on the blood from the heart cavity for qualitative and quantitative confirmation of benzodiazepines revealed the presence of dealkylflurazepam at a concentration of 16 ng/ml.



3.4.3. DGRSP Social Report of April 18th 2016

In addition to the points already mentioned in the matters of fact proven in the legal proceedings, it is considered relevant to refer to the following information:

- **B**'s development process took place within his family of origin with a generally balanced dynamic, where financial difficulties stand out.
- **B** did not invest in a professional career, due to his mother's imposition, given the economic needs of the household.
- **B** benefits from family support by his siblings.
- In his area of residence, **B** is recognised by all the sources contacted (who know the facts that led to this confrontation with the criminal justice system and his current situation of imprisonment) as a polite, hardworking person who has always established positive interactions with others, and is not the target of any kind of rejection in that social environment. His constitution as a defendant in the present case has not had a negative impact on the image he projects in this context.
- The negative repercussions of the present process were restricted to the fact of being confronted with the system of criminal justice administration and to his reclusion, which prevented him from continuing his daily life.
- In case he is convicted, **B** has needs at a psychosocial level, namely: to develop personal and social skills, being important that he changes his beliefs and convictions regarding the role of women in society; and at the same time, this process allows him to internalise the inadequacy of his conduct, in order to guide his future journey through life in accordance with the social legal norms in force.

3.4.4. Forensic Psychiatry Report of INMLCF, of 18th May 2016

Conclusions of the report:

- **B** does not suffer from a psychiatric illness.
- No alteration of the state of consciousness was detected at the time of the commission of the acts.



- **B** shows great difficulty in tolerating frustration, which will lead him to manifest aggressive behaviours as a way to manage the emotional tension.
- At the moment of committing the acts, **B** was capable of evaluating the illegality of the acts he committed, and of determining himself in accordance with that evaluation, and should be held responsible.

3.4.5. Knowledge of the context of violence between A and B in the local community

Within the review and according to the elements included in the judicial process, irrespective of whether or not they were considered in the proved facts, some aspects of the knowledge that people close to the victim and the perpetrator had about the existing conflict between them, indicators of the sociocultural context of **A** and **B**'s community of origin stand out:

- Statements provided by **A**'s sister, who maintained a close relationship with her through regular telephone contacts, which show she was aware of the context of violence between **A** and **B** since September 2015 - namely that **B** had behaviours of physical violence against **A**, as **A** had bruises on her face and cuts on her lower lip were noted on one of her visits to her sister's house. She suggested that **A** should take **B** back, as she understood that this was merely a marital dispute.
- Statements made by one of **A**'s neighbours, who said he had witnessed arguments between **A** and **B** and the behaviours of mutual physical aggression, as well as death threat by **B** towards **A**, namely those that occurred on 23rd September 2015, and also the behaviours of surveillance and control of **A**'s movements by **B**.
- Statements provided by **A**'s ex-partner, who maintained a close friendship with her, namely through regular face-to-face and telephone contacts, who claimed to be aware of the context of violence between **A** and **B**, namely that the latter had behaviours of physical violence, threats and surveillance and control of **A**'s movements. He also stated that he knew, through **A**, that **B** had made her death threats, because he was convinced that they had an intimate relationship.
- Statements made by two neighbours and acquaintances of **B**, to whom, during a conversation in a café, he allegedly confessed that he had killed **A**, although they did not give any relevance to this conversation, as they thought he was lying.



Domestic Homicide Review

04.

**Timeline of the Case -
graphic representation**



CHAPTER

04.

Timeline of the Case - graphic representation

Based on the information gathered, a timeline of the case was elaborated, which includes the most relevant events for its analysis.

Timeline from November 2014 to 4th November 2015



DOMESTIC HOMICIDE REVIEW
CHAPTER 04. TIMELINE OF THE CASE - GRAPHIC REPRESENTATION



A makes a statement- 3rd
opportunity for intervention





4th November 2015 

B kills A



Legend

-  Start of the relationship and wedding
-  Background/risk factors
-  Intervention opportunities
-  Homicide
-  Contact with the Public Prosecutor's Office

*Risk factors of RVD detected in the review:

- No. 1 - Has the offender ever used physical violence against the victim?
- No. 5 - Was medical attention required after any aggression and/or did the injuries compromise the victim's normal daily activities or those of other family members?
- No. 6 - Has the number of violent episodes and/or their severity increased in the last month?
- No. 8 - Do you believe that the offender is capable of killing you, or having you killed (are you convinced that he is really capable)?
- No. 9 - Has the offender ever tried to or threatened to kill the victim or other family member?
- No. 10 - Does the offender stalk the victim, intentionally intimidate her, display excessive jealousy and tries to control everything the victim does?
- No. 11 - Does the offender display emotional/psychological instability and is not being monitored by a health professional or not taking prescribed medication?
- No. 16 - Does the offender have significant financial problems or difficulties in maintaining employment (in the last year)?
- No. 18 - Has the victim been separated from the offender, attempted to/manifested an intention to do so (in the past/next 6 months)?



Domestic Homicide Review

05.

The Review



CHAPTER

05.

The Review

5.1. On the action of the Public Prosecutor's Office

Considering the data collected in regards to the action of the public administration, on services with direct oversight on the process, the review of the current case will only focus on the actions of the Public Prosecutor's Office, the judicial authority with which the victim filed the complaint, and that has taken full responsibility on carrying out the enquiry without participation of any other entity, namely any policing body. We shall review the management of the criminal investigation and the triggering of necessary actions for protection and support of the victim.

5.1.1. Receipt and processing the complaint filed by the victim

It should be noted that to the date in which the complaint was filed by **A**, on the 29th of September 2015, the third review to the LVD amended by Law no. 129/2015 of 3rd September, effective from the 3rd October 2015, had not been enforced.

However on the 22nd October 2015, the date on which **A** makes a written statement to the Public Prosecutor's Office in (...), aiming to clarify the initial statement in the official records, the said review was already in force, by which mechanisms for preventing and reacting to domestic violence had been anticipated and reinforced, specifically those related to collection of evidence and action upon the perpetrator, the victim's risk assessment, drafting of an individual safety plan and applying protection measures. The Public Prosecutor's Office has not, however, actioned any of such mechanisms.

According to the information collected, it can be concluded that the Public Prosecutor's Office never considered the complaint filed by **A** as a true domestic violence situation of, that is, the procedures demanded by Law in dealing with complaints and crime investigations back in 22nd October 2015, where never followed.



B kills **A** on the very same day **A** had made a statement in the Public Prosecutor's Office in (...) 37 days after the first complaint, without any consequent intervention from the Public Prosecutor's Office regarding victim protection measures or duress towards the perpetrator.

The initial complaint was received without leading to further collection of information that could have characterised the actions of the perpetrator, because, as stated by the Public Prosecutor's Office, at the time there were no recommendations or instructions to staff on how to manage victims of domestic violence".

The Public Prosecutor has managed the complaint without any urgency and without considering the facts, leaving the inquiry to follow its bureaucratic course, distant from the victim's intervention plea.

In this jurisdictional area, the instruction no.1/2014, of the 15th October had been not implemented by the Public Prosecutor's Office, which recommends the principle of specialisation in the assignment of magistrates to enquiries concerning domestic violence. The guidelines concerning proceedings and management of domestic violence crime investigations have been issued at a later date, on the 21st of November 2015 (Directive no. 2/2015), as mentioned earlier in this report.

5.1.2. Opportunities for intervention at the investigation stage

According to the review that has been performed, several facts came to light throughout the enquiry no.(...) that could support a domestic violence complaint, pointing to three opportunities for intervention:

- On the 29th of September of 2015, when **A** files a verbal complaint, in person, with the Public Prosecutor's Office in (...).
- On the 22nd of October 2015, when **A** is officially summoned for clarification of the accusation.
- On the 1st of November 2015, when **A** renders a statement at the Public Prosecutor's Office in (...).



On none of these occasions the conduct of the Public Prosecutor's Office complied with the following procedures outlined by law and/or by instructions concerning this matter:

- Providing specialised support and information to the victim
- Use of a specific form while recording the statement, namely the standard complaint report, which had been designed for the purpose of prevention, crime investigation and support to victims.
- Assigning the Status of Victim.
- Risk assessment of the victim, using the form RVD-IL¹.
- Conduct urgent actions leading to collection of evidence, aiming at establishing protection measures for the victim and restraining measures towards the defendant, within a maximum 72-hour period.
- Forwarding the victim to local support centres to devise an individual safety plan.

5.1.3. Risk factors identified at the enquiry stage

The risk assessment and risk management in a domestic violence situation are crucial for the implementation of policies aimed at preventing and combating domestic violence, namely in aspects associated to the victim's safety and safeguarding; these aspects can be addressed by filling in the RVD-1L form, which constitutes a detailed record of the circumstances surrounding the escalation of the domestic violence, and allowing the quantification and classification of such risk, as low, medium or high.

According to the review, and considering the existing information at the time of **A**'s hearing (inclusive of), the following risk factors recorded in the RVD-1L could have been identified:

- **B** physically abused **A** (no.1)

¹ The domestic violence risk assessment form (RVD-IL) should always be applied in the scope of a domestic violence complaint, following the issue of a standard report, or a domestic violence complaint, or report amendment.



- Medical care was needed after the aggression (no. 5)
- The number of violence episodes and their severity has been increasing (no. 6)
- **A** believes **B** could kill her (no. 8)
- **B** threatened **A** of killing her (no. 9)
- **B** harasses **A**, deliberately intimidating her, and reveals excessive jealousy (no. 10)
- **B** shows to be unstable, emotionally, and psychologically (no. 11)
- **B** has been struggling to hold a job for the past year (no. 16)
- **A** has left **B** (no. 18)

Although it is known the existing risk factors are listed with equal measure on the RVD-1L form - an aspect that EARHVD recommends being pondered in the next review of the said tool - it is widely recognised that some factors are indicators of a higher risk, including that of a life-threatening situation, namely the death threat, known since the first instance when **A** filed the complaint, and objectively described in the written report on the 22nd of October 2015, as well as on the 1st of November 2015 when she renders her statement at the Public Prosecutor's Office.

That is, had the assessment mechanism been triggered by the Public Prosecutor's Office by filling in the RVD-1L form, as per recommendation no. 2/2014, of the 30th of October from the Public Prosecutor's Office, the severe risk of **A** suffering further domestic violence episodes would have been anticipated.

Such assessment would have opened the opportunity for applying a set of measures, namely:

- Verification of the assumptions made at the time of **B**'s arrest, out flagrante delicto, in view of presenting this evidence to the judge to support enforcement/coercion measures (article 30, number 2 of the LVD).
- Drafting and implementing an individual safety plan in view of referring the victim onto a scheme of remote assistance (TeleAssistance), providing the victim with information regarding support networks, regular reviews with the victim, and in-



creased patrolling of the areas surrounding her residence and workplace.

No such actions were taken in this specific case.

5.2. The sociocultural context surrounding the facts

The information collected in this review provided insight on relevant aspects of the socio-cultural context of the victim's and the perpetrator's community of origin, in which domestic violence is considered a private matter, belonging to the remit of the couple and the household, silenced and tacitly acceptable; the evidence for this is that **A** was advised to take **B** back.

Actually, the elements included in the judicial process, namely the several statements rendered throughout the investigation, lead to the conclusion that, either constituting a proven matter of fact or not, the violent behaviour of **B** towards **A** was already known to some members of the community they integrated and with whom they had more or less close relationships; this knowledge does not seem to have had any negative impact on **B**'s social stance in his environment, including the formal accusation for the murder of **A**, as a result of the DGRSP Social Report of the 18th of April 2016, previously introduced.

Additionally, there is no note of any alert or referral to the criminal police services of the Public Prosecutor's Office, or any other body for that matter, concerning the behaviour of **B**, although certainly during the period the victim and the aggressor were in a relationship, domestic violence was considered a public offence, meaning that anyone could have filed a complaint that would trigger an enquiry and all the other intervention tools outlined in LVD, which did not happen in this case.

All of this highlights the need to reinforce actions to debunk beliefs, values and attitudes, either individual or collective, underlying the perpetuation of gender misrepresentations that fuel the power dynamics and the control of men over women, thus contributing to the latter being more exposed to specific types of violence, namely domestic violence.

Domestic Homicide Review

06.

Conclusions



CHAPTER

06.

Conclusions

Aiming to enforce the third objective of the current report, we present the following conclusions, to allow implementation of new prevention methods applied to the respective procedures.

- The judicial intervention on the case reviewed began when the victim (**A**) approached the Public Prosecutor's Office to render a verbal statement on domestic violence, and was attended by an officer demonstrably lacking competence and training for this matter, contrary to what is stated in article 27, number 3 of LVD and in the Instruction form the Public Prosecutor's Office no.1/2014, of the 15th of October, resulting in a report void of relevant content which did not reflect the behaviours denounced nor the type of relationship between **A** and the perpetrator (**B**); as such, the correct legal framework of the reported facts could not be determined, making it necessary to summon the victim to render a written complaint.
- During the course of inquiry originated by this complaint of domestic violence, the conduct of the Public Prosecutor's Office did not follow the expected procedures, according to the law or instruction with which it is bound to comply. Specifically:
 - The victim was attended by someone with no appropriate technical training.
 - The Status of Victim was not assigned, and information on support available to her was not given.
 - The risk assessment for recurrence of domestic violence was not performed.
 - No measures for protection of the victim were implemented.
 - No due diligences were initiated, aiming to consider the need for applying enforcement/coercion measures towards the aggressor.
- Since the complaint filed by **A** on the 29th of September 2015, to the date of her demise, on the 4th of November 2015, on which date she rendered a statement at



the Public Prosecutor's Office, 37 days passed without any decision made about enforcement measure towards the perpetrator nor any measures for the protection of the victim; of note that at the time the victim made a written complaint, on the 22nd of October 2015, the third amendment to the LVD, establishing a maximum 72-hour period for acquiring evidence leading to the protection of the victim and enforcement measures towards the aggressor, was already in force

- Although the behaviour shown by **B** was common knowledge in the local community where **A** and **B** lived and with which they kept personal relationships, there is no evidence of concerns being raised with the police authorities, the Public Prosecutor's Office or any other entity that could support the victim, hence perpetuating the context of domestic violence experienced by **A**.



Domestic Homicide Review

07.

Recommendations



CHAPTER

07.

Recommendations

In order to comply with the fourth objective of the current report, the following recommendations have been formulated:

In the area of Justice, the EARHVD recommends:

- In light of the evolution and dispersion of the legal system, of the increasing challenge of applying and developing operational tools, the Public Prosecutor's Office must consider, the creation of guidelines to be implemented by services and Public Prosecutors in relation to the several aspects of the judicial system and types of intervention in domestic violence situations, in the form of a hierarchical document of good practice, as a factor to increase the relevance, coherence and efficacy of its actions.

In the area of citizenship and gender equality, the EARHVD recommends:

- The Commission for Citizenship and Gender Equality to focus particularly on promoting the combat to domestic and gender-based violence in the geographical areas showing poorer response, by launching local awareness actions campaigns aimed at challenging beliefs, myths, and stereotypes associated to violence against women. Such actions should be rooted in a network including municipalities and entities sponsoring the services provided by National Support Network for Domestic Violence Victims.

Lisbon, 10th of January 2018

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

Dr. José Manuel Palaio

Representative of the Ministry of Justice

Dr.^a Maria Cristina Mendonça



Representative of the Ministry of Health

Dr. Vasco Prazeres

Representative of the Ministry of Labour, Solidarity and Social Security

Dr.^a Cristina Serém

Representative of the General Secretariat of the Ministry of Internal Affairs

Dr. António Castanho

Approval of the Case report no. 2/2017-JP

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

1. The review of homicides in a domestic violence context aims to contribute to improving 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.
2. In this specific case, the investigation and analysis focused on the Public Prosecutor's Office action, which assumed the investigation and intervention after the victim had presented a complaint to its services, due to domestic violence practised by her husband. According to people close to the victim and the perpetrator, there was a great condescension towards the conducts of aggression, stalking and threats developed by the latter targeting his spouse, particularly after the couple's separation.
3. The review procedure defined in the EARHVD rules of proceeding was respected.
4. The conclusions are based on the facts. The report is objective, reasoned and clearly written.
5. The recommendations presented are relevant and timely, in light of the facts verified, of the shortcomings evidenced in the approach to the case and in the application of already existing intervention instruments, as well as the need to strengthen the involvement of citizens in preventing and combating domestic violence.

For all the above reasons, I approve the Report.

The Report should be sent to all entities permanently represented in the EARHVD, as well as to CIG's President.



The Report should also be sent to:

- *Portuguese Judicial High Council*
- *Ombudsman's Office*
- *General Command of the National Republican Guard*
- *National Directorate of the Public Security Police*
- *National Directorate of the Judicial Police*
- *Social Security Institute, Public Institution*
- *Social Security Institutes of the Azores and Madeira*
- *National Institute of Legal Medicine and Forensic Sciences*
- *National Commission for the Promotion of Rights and Protection of Children and Young People*
- *Directorate-General for Reintegration and Prison Services*
- *Centre for Judicial Studies*

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

15th January 2018

Rui do Carmo
Coordinator of EARHVD