

Case: **3/2017-CS**



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

FINAL REPORT

Domestic Homicide Review

Report Author

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Domestic Homicide Review

01.

Case Identification



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01.

Case Identification

1.1. Judicial sentence

The current report pertains to the facts subject of the proceedings (...).

Pursuant to, article 10, number 4 of Ministerial Order 280/2016, issued on the 26th of October, a decree that regulates the procedures for retrospective review of a homicide in the domestic violence context, the identification of those involved is presented as follows: victim **A**, mother of the perpetrator, victim **B**, partner of **A**; **C**, the perpetrator.

In the case identified above, a conviction decision was issued on the 24th of April of 2017, and the defendant (**C**) was sentenced to prison for 2 years and 6 months for the crime of simple homicide attempted, envisaged and sanctioned by article 22, number 1 and 2 paragraph c), article 23 and article 131 of the Penal Code (**B** being the victim); the crime of domestic violence, envisaged and sanctioned by article 152 number 1, paragraph d) and number 2 of the Penal Code, for a 2 year and 6 month imprisonment sentence (**B** being the victim); the crime of aggravated threat, envisaged and sanctioned by articles 153, number 1 and article 155 number 1, paragraph a) and c) of the Penal Code, for a 7-month imprisonment sentence (involving GNR officers as the offended). The accumulation of sanctions resulted in a 4 year and 6-month imprisonment sentence, suspended for an equivalent period of time subject to a probation order grounded in a social reintegration plan.¹

The simple homicide attempted in the domestic violence context reviewed in this report occurred on 31st July 2015, and the victim was the perpetrator's (**C**) stepfather (**B**).

¹ The Social Reintegration Plan, drafted by the Directorate-General for Reintegration and Prison Services (DGRSP) approved by the court, had four main objectives: "Improve the relationship with the biological family and current partner"; "Decrease the contact with peers pursuing criminal behaviours and increase the contact with non-criminal individuals, increasing engagement in structured leisure activities"; "Balancing the defendant's weakened mental health aspects with the adherence to programs and appointments that target emotional stability and reduce drug abuse"; "Developing social and individual skills to promote change through a positive social behaviour"



1.2. Description of the parties involved

Characterisation of Victim **A** (married to **B** and mother of **C**)

- Gender: Female
- Age: 68 years old
- Civil status: married
- Nationality: Portuguese
- Profession: n.a.
- Employment status: Retired
- County of residence: (...)

Supplementary Information:

- 1966 - married for the 1st time
- 1974 - widowed
- 1975 – married **C**'s father
- 1991- divorced **C**'s father
- 1997 – married **B**

Characterising Victim **B** (married to **A**)

- Gender: Male
- Age: 70 years old
- Civil status: Married
- Nationality: Portuguese



- Profession: n.a.
- Employment status: Retired
- County of residence: (...)

Supplementary Information:

- 1966 – married for the 1st time
- 1983 - divorced
- 1997 – married **A**

Characterisation of the aggressor (**C**) (son of **A**)

- Gender: Male
- Age: 28 years old
- Civil status: Single
- Nationality: Portuguese
- Profession: n.a.
- Employment status: Disabled person receiving a state pension
- County of residence: (...)



Domestic Homicide Review

02.

**Team Composition
and Information
Sources**



CHAPTER

02.

Team Composition and Information Sources

The review procedure began on the 21st of July 2017 and was completed on the 19th of April 2018.

The Domestic Homicide Review Team (EARHVD) included its permanent members, one non-permanent member on behalf of the GNR, 1st Sargent Sandra Isabel da Costa Ribeiro, and a contingent member on behalf of the Social Security Institute, Public Institution, Dr. Paula Pereira.

In pursuant of articles 4 and 5 of Law no. 112/2009, issued on the 16th of September (legal regime applicable to the prevention of domestic violence, protection and assistance to its victims - LVD designated as LVD hereafter), the review has grounded on the following information:

- a. Documentation included in the legal proceedings, specifically: complaint, enquiry report and interrogation report, risk assessment records, police information, clinical data, clinical and forensic reports and psychiatric assessments, social services reports, indictment and conviction decision.
- b. Other information from the judicial system: list of processes kept in the Citius platform, according to which **C** was involved with **A** and **B**; review of three inquiries.
- c. Police information: police records of **C** kept in the District Headquarters of the (...) PSP and Republican National Guard (GNR); written clarifications provided by the Territorial Headquarters of the (...) GNR.
- d. Health: records on the journey **C** made to the hospital (...) in the scope of the Mental



Health Law; information provided by the Psychiatry Department, Hospital Cluster
- information provided by the Drug Addiction Dissuasion Commission of (...).

- e. Social security: individual and family folders of the whole household, dated between 2010 and 2017, facilitated by the Social Security District Centre of (...); written clarification provided by this body of the Social Security.

No further relevant information was identified in any other area.



Domestic Homicide Review

03.

Collected Information



CHAPTER

03.

Collected Information

3.1. Factual material proved during the legal action (summary)

The facts proved/evidence found throughout the legal process considered relevant for this review are listed below:

- **C** moved to his mother's house, shared with her husband (**B**) in (...) in an undetermined date sometime by the end of June 2015.
- Since this move, **C** started arguments with **A** and **B** on a daily basis, demanding cash from them.
- Given his younger age and strength, **C** would threaten them with death if they did not oblige him, repeatedly saying "I will slash your throats".
- On the 29th of July 2015, at about 8h30 pm, **C** once again demanded cash from the victims, inside their own house.
- As **B** would not comply, **C** hit him with a punch in the forehead.
- Witnessing the aggressions inflicted by **C**, **A** tried to escape into the backyard to seek help, but **C** stopped her by grabbing her arms and pulling her inside, locking the door and keeping the keys with him.
- As a result of the aforementioned aggressions inflicted by **C**, **B** suffered echimosis in the periorbitary region, 5cmx3,5cm in size; excoriation of the lateral extremity of the ciliary region 1cmx0,2cm in size; left periorbitary echimosis 5,5cmx3cm in size – which resulted in 8 days of sick leave, without affecting the overall fitness.



A suffered echimosis and pain.

- On the 31st of July 2015, at about 9.10 pm, inside the same house, **C** demanded money from the victims, once again. As they both refused, he walked towards the room where **B** was lying on his bed and said: "if it wasn't enough then I'll do worse this time", with the intent of reminding him of the aggressions he had inflicted on him two days before. He then addressed **A** yelling: "come here if you want to see me kill your husband, hit him with a hammer, I want to cause you as much grief as you have caused me, this will only end once I kill you both."
- Having said this, and holding an object which was not identified in detail but similar to a hammer, he hopped on the bed where **B** lay, pressed a knee against his back and targeted his head, preparing the blow. When **A** realised what he was about to do, she immediately pushed him aside and diverted the blow.
- **C** ended up leaving the house.
- By acting as described above, **C** showed intent of killing **B**, having only failed thanks to **A**'s intervention.
- On the 4th of August 2015, following another argument caused by **C** demanding money from the victims, **A** and **B** have left the house at about 12h30 and sought help from the GNR's Territorial Headquarters of (...) as they feared **C**'s violent behaviour. Once at the Headquarters, **A** received a call from **C** saying "don't forget you will come home for the night and then we'll have a chat", "when you return, even if I must use a rock from the pavement, I will fuck you both, I'll kill you". **B** also heard this, as he was sitting next to **A**.
- **C** has already been convicted: to a sentence of 6 months of imprisonment (suspended for one year and then expired) on the 4th June 2010, for the crime of resisting and bullying a clerk; to paying a penalty for the crime of driving without a valid licence, on 15th October 2010; and to paying a penalty for causing damage, on 21st August 2011.
- Facts extracted from the social services report:
 - a. **C** has 5 siblings (1 full-sibling, 3 half siblings on the mother side, and 1 half sibling on the father side).



- b. He was removed from his mother between 7 and 14 years of age.
- c. By court's decision, he has been returned to the mother's household at 14 years of age. Despite the dedication demonstrated both by her and her partner in adopting an educational pathway appropriate to his needs, **C** gradually developed a deviant behavioural pattern, resorting to violence at the family home and establishing bonds with peers demonstrating anti-social behaviours.
- d. **C**'s daily routine has been characterised by non-existent structured life habits, while using hashish on a daily basis.
- e. Once he was awarded disabled benefits, and for about a year, he lived on his own in a rented home; during this time, his mother continued to control his routine and support him financially, which was crucial to address his maintenance needs (she paid his rent). Despite the support and control, **C** could not cope with the expenses he had and returned to the family household in July 2015. While living together, severe episodes of domestic violence directed towards relatives and material damage kept occurring.
- f. The victims checked in an emergency shelter home following the occurrence on 31st July 2015, and **C** remained in the family home until the 27th September 2015 (when the tenancy agreement terminated)

3.2. Other relevant information for this review

3.2.1. Regarding the judicial intervention

About the investigation stage (source: case file)

- a. At the time of the episode occurred on 29th July 2015, when GNR turned up at their residence at about 8.30 pm, the victims refused being referred to a shelter home, stating their intentions to again try to co-live with the aggressor.
- b. At the time of the episode occurred on 31st July 2015, GNR responded to an anonymous call via the emergency helpline 112 denouncing an aggression against two elderly people inside the house, and noted that **B** showed marks of aggression around the eyes, presenting bloody eyes and bruises around the area.



- c. On the 1st August 2015, **A** and **B** were assigned the status of victim and a risk assessment for domestic violence was implemented.
- d. At the time of the episode occurred on 4th august 2015, the victims were advised to check into a shelter home and, believing that **C** would kill them on their return home, they have agreed with that proposal. National Social Emergency Hotline - -144 was actioned and the victims were placed in an emergency shelter home.
- e. The GNR patrol team escorted them to their home to allow them to pick up essential goods.
- f. The GNR sent the complaint report to the Public Prosecutor's Office and documentation regarding the actions taken up to the 5th August 2018, in which date the judge issued an order requesting the police body for feedback on the referral of **C** to the General Hospital of (...), in accordance with the Law on Mental Health (see information below concerning the health sector), and also further details "on the shelter home to which the victims were referred, and should they show any intentions of leaving it, this court should be immediately informed".

Risk Assessment (source: case file)

a. File RVD-1L2, issued on 1st August 2015

The following 13 risk factors have been confirmed in the RVD-1L:

- Nº1 - Has the offender ever used physical violence against the victim?
- Nº2 - Has the offender ever used physical violence against other household members?
- Nº3 - Has the offender ever tried to strangle (try to choke), suffocate, drown the victim or other family member?
- Nº5 - Was medical attention required after any aggression and/or did the injuries compromise the victim's normal daily activities or those of other family

² The risk assessment form (RVD-1L) should always be used in the scope of a domestic violence report, following a standard complaint or report of a domestic violence occurrence, or even when making amendments to a report.



members?

- N°6 - Has the number of violent episodes and/or their severity increased in the past month?
- N°7 - Has the offender ever used/ threatened to use any kind of weapon against the victim or other family member, or has easy access to a firearm?
- N°8 - Does the victim believe the offender could kill them or send someone to kill them (strongly believes he would be capable of such)
- N°9 - Has the offender ever tried to or threatened to kill the victim or other family member?
- N°11 - Does the offender display emotional/psychological instability and is not being monitored by a health professional or not taking prescribed medication?
- N°13 - Does the offender have problems with alcohol or other drug use that make normal daily life difficult (in the last year)?
- N°14 - Does the offender have a record of previous criminal complaints?
- N°16 - Does the offender have significant financial problems or difficulties in maintaining employment (in the last year)?
- N°19 - Does the victim or someone from the household have special needs and lacks support from a third party?

The level of risk the victims were exposed to was classified as high, and the following measures were recommended: to check whether the pre-conditions for arresting the aggressor out of flagrante delicto had been met; to refer the victim to a support organisation that can direct her to a shelter; to reinforce the communication with the victim about support resources; to send the risk assessment form RVD-1L and the report/ amendment to the local community police team; reinforce patrolling near the site of the occurrence/residential address/workplace; to escort the victim, upon request, to court, hospital, social services appointments.



b. The form RVD-2L³ (risk reassessment in a domestic violence situation) was designed on the 20th October 2015

- Clarification provided by the GNR (...) Territorial Police Headquarters

In regard to the episodes occurred on the 31st July and 4th August 2015, the following clarification was requested to the Republican National Guard, in pursuant of article 4-A, number 5 of the LVD and article 10 of Ministerial Order no. 280/2016, of the 26th of October:

In any of the occasions mentioned above there was any action to arrest the perpetrator, whether in pursuant of article 255 of the Penal Code, or article 30 of Law no. 112/2009, of 16th September. Why were such procedures for arresting the perpetrator not triggered in any of those occasions?

The (...) Territorial Police Headquarters issued the following reply:

"2. Review

On the 31st of July of 2015 at about 9h00 pm, at the address of the people involved in the process, a local police patrol is called to the site by an anonymous caller via the emergency line 112.

*On arrival to site, they found an elderly couple, one of the individuals **(B)** showed visible bruising around and in the eyes, as a consequence of the alleged aggression two days before. In light of the bruising and because the individual was reporting pain in the lower back and shortness of breath, the emergency help was triggered and the couple and their stepson (stating he had also been victim of aggression) were transported to the Hospital of (...).*

*As per the victim's allegations, the aggressor **C** would recurrently make use of threats and physical abuse to extort money from his mother and stepfather.*

The elderly couple was asked and advised to check in a shelter home, having refused

³ RVD 2L form should be used whenever the risk is being reassessed, that is, at a later stage in relation to the recording of the complaint, and should be filled in by the police officers in contact with the victim, in the scope of the criminal investigation or community policing.



and stating their intention of attempting to live with the perpetrator.

On the 4th of August of 2015, at 12h30 pm the couple has come to the Territorial Headquarters of (...) and declared the same individual kept on extorting money from them; the couple had taken advantage of the aggressor "being distracted" to come in for a statement.

*In that moment, **A**, mother of the perpetrator, received a phone call from the perpetrator, and it was possible for the police officers present to hear the conversation.*

Despite the nature of the threats, those were made over the phone and not directed to any of the police officers in particular. The victims were advised to check in a shelter home, and this time they have agreed to do so. They were accompanied to their home address by police officers from that territorial unit, to pick up basic personal items.



Domestic Homicide Review

04.

Conclusions



CHAPTER

04.

Conclusions

The situation depicted above was going on for 4 to 5 years, and had been properly reported to the Public Prosecutor's Office, the body accountable for organising the enquiry, in pursuant to article 263, number 1 of the Portuguese Penal Code, through the NUIPC in the heading that in turn listed other Criminal Processes in which the suspect **C** was involved.

Concerning the matter above, we hereby inform that the military officer of the Guard did not proceed with the arrest accordingly to article 255 of the Penal Code, considering that there was no evidence supporting the arrest for in flagrante delicto, namely the actual flagrante delicto.

Arrest out flagrante delicto was also not brought forth as it "was not vital to ensure the protection of the victims", this protection being achieved by the victims agreeing to take shelter.

Of note that the procedure of the Guard has never endangered the physical integrity of the victims, and they have been in fact safeguarded; moreover, and if not proved otherwise, the potential arrest of the individual could have been undertaken at any time by the Public Prosecutor Office, or requested by the Public Prosecutor's Office to the Investigating Judge (Pre-Trial Judge), in pursuant of article 257 of the Penal Code.

Information provided by the Public Security Police

On the 15th December 2017, the Unit for Criminal Investigation of the PSP District Headquarters of (...), considers that, from the criminal episodes **C** was involved in, "it happens that since 2005 he has been subject to violence both inside the family and in the external environment, initially as a victim, but at some point he then starts to exteriorise the attitude, joining groups of youngsters and adopting risk behaviours like drug abuse and engaging in violence against people close to him, including relatives and his girlfriend."



Previous criminal procedures

The following procedures were identified that are relevant for the review:

NUIPC⁴ (...)

1. Complaint report elaborated by PSP of (...), on 30th April 2005, after visiting the address where **A**, **B** and **C** lived, in the same city, "as there was domestic violence". The officer reported that **A** had an argument with her husband **B** while she was preparing dinner, and he threw a plastic container at her which caused a bruise in her chin; **C** intervened to help his mother, but **B** grabbed him by the neck, knocked him to the ground and hit him in the ribs. In **A** statement she reports being married to **B** for 10 years, she "has been physically abused by him, and always avoided reporting the facts to the authorities, but 3 years ago he had broken one of her arms".
2. **B** has been examined by a Forensic Psychiatry team in the INML branch in (...), whose report dated 23rd July 2007 has delivered the following conclusions:
 - a. "The individual assessed suffers from an impulsive Personality Disorder (F60.30 of CID-10), and additionally, shows a Recurring Depressive Disorder, currently in remission, however still undergoing treatment (F33.4 da CID-10)".
 - b. "From a Forensic Psychiatry point of view, such a psychopathological context provides a strong extenuating circumstance for his criminal responsibility.
 - c. "A regular and appropriate medical and psychiatric follow-up (psychopharmacologic, psychotherapeutic and psychosocial) is recommended as means to positively influence this case prognosis and potentially prevent his involvement in further illegal activities of the same nature and severity as the ones underlying this investigation".
3. On 23rd September 2009, **A** stated in the complaint that **B** "had never again abused or mistreated the deponent", for which she "drops the complaint". Also **C**, on the same date, stated he would drop the complaint. On the same day, the

4 NUIPC - Unique Criminal Case Identification Number



Public Prosecutor's Office, alleging that "the reports only describe evidence of the crime of offences against physical integrity", for which the criminal proceeding is subject to the complaint (article 143, 2 CP), approved the withdrawal and ordered the archiving/dismissal of this enquiry, in pursuant of article 277, number 1 of the Portuguese Penal Code.

NUIPC (...)

4. On the 6th April 2010, **A** and **B** filed a complaint at the PSP Station of (...) against **C**, son of **A**. The summarised facts are described below:
 - a. On the eve, at the home they all shared in (...), **C** threatened **A** and **B** saying he would beat them if they did not hand him money to buy a motorcycle.
 - b. They decided to leave the house, scared of **C**, who repeatedly called **B** demanding the money. So, they decided to spend the night inside the car in a parking lot near the police station. In the morning they received a new phone call from **C**, saying they would not be allowed in the house anymore and demanding money from them.
 - c. It was then they made the decision to report the situation to the police, adding to the statement that **B** had been bitten twice by a **C**'s dog (a dangerous breed) and he had threatened them with a meat axe in the past October/November, "asserting he would cut their throat".
5. PSP framed the facts in the scope of domestic violence, having assigned the status of victim to **A** and **B**. Also, the Public Prosecutor's Office, in the first legal order issued during the enquiry on the 6th May 2010 has classified the fact as "potentially fitting the definition of the crime of domestic violence envisaged and sanctioned in article 152 of the Penal Code", and two additional instances were added to this enquiry:
 - a. The enquiry no.(...) regarding reciprocal aggressions between **B** and **C**, occurred on the 19th November 2009, at their home (classified as a crime of offences against physical integrity).
 - b. The enquiry no.(...), regarding the threats uttered by **C** against **A** and **B**, to whom he has said "I'll cut both of your throats" (qualifying as crime of threat).



6. When asked by the PSP, **A** and **B** declared that **C** had been seen by the general practitioner, and medication had been prescribed, showing "a calmer and very considerate" behaviour. Those were the reasons invoked not to go ahead with a criminal procedure against **C**. **C** was questioned by the police and refused to deliver a statement but also confirmed he would not challenge an eventual withdrawal of the complaint.

On 11th October 2010, the Public Prosecutor's Office dismissed the enquiry due to the withdrawal of the complaint without opposition from the defendant, given that "the facts recorded in the reports seems to provide evidence of crime of offences against physical integrity, envisaged and sanctioned by article 143 of the Penal Code and crime of threat envisaged and sanctioned by article 153 of the Penal code".

NUIPC (...)

7. The Public Prosecutor's Office has considered the defendant C conduct has been adequately indicted, as described below:
- a. On the 20th March 2011, at about 2.30 pm inside the house where **A**, **B** and **C** lived the latter two were involved in an argument, where **C** used a parasol to hit **B** in the head and on his left arm.
 - b. As **A** came between the two, **C** bit her and held her arms;
 - c. **A** and **B**, both suffered physical injuries.
8. The facts were classified as qualifying crimes of physical abuse [article 143, no. 1 and article 145, no 1, paragraph a) and no 2, for reference to article 132, no. 2, paragraph a) of the Penal Code] and simple offence against the physical integrity (article 143, no. 1 of the Penal Code).
9. On 8th March 2012, the Directorate-General for Social Reintegration produced a report including essential information about the social and personal circumstances of **C**:
- a. "The withdrawal of the mother from the defendants' sphere between the 7th and 14th years of his life, namely her absence from formative and affective aspects strongly driven by his father, constitutes a traumatising event, when the boy endured physical abuse and emotional manipulation."



- b.** He was returned to the mother's household at 14 years of age, and showed "a progressively inadequate behavioural pattern, resorting to violence as a way of communicating, and seeking the company of peers demonstrating anti-social behaviours".
 - c.** Until the date of the facts investigated during this process, he had never been subject of a mental health assessment.
 - d.** "During the course of the clinical and psychiatric follow-up, which includes specific medication, he has been showing a more adequate behavioural pattern".
 - e.** He has been attending a Carpenter Course at the Special Education Centre of (...) since 1st March 2012.
 - f.** He reveals poor competences in self-assessment, lack of focus and "a moderate intellectual disability with behavioural changes of the psychotic type, as determined by clinical examination".
- 10.** The provisional suspension of the process for a period of 9 months was ordered on 18th June 2012, and **C** was subject to the obligation of attending the scheduled psychiatry appointments and associated treatment plan.
- 11.** Initially, the MP has also determined **C** to follow the obligations: "To maintain the attendance of the Carpenter Course at the Special Education Centre (...), following the schedule and the instructions given by the trainer". However, **C** had abandoned the course in previous occasions prior to the investigative magistrate order, so this disposition was not accepted, to which the MP agreed.
- 12.** During the course of the provisional suspension, the Directorate-General for Social Reintegration, the entity following-up on the case, has produced a report advising that "the objectives associated to this measure have been met", and informing that:
- a.** **C** attended every scheduled interview.
 - b.** **C** has kept a relationship free of conflict with **A** and **B**, to which the mental health scheme including the scheduled appointments and medication, have greatly contributed.



c. After dropping out of the Carpenter course, **C** could not find a professional or training opportunity, becoming indifferent to the fact of being inactive.

13. On 19th April 2013, the MP ordered the enquiry to be dismissed as the defendant had complied with the obligations he was assigned, "without any record of a physical violence related crime of the same nature being captured by the CRC".

4.2.2. Regarding the health sector

Mental Health Law: C was taken to the Hospital from (...), on August 5th 2015 (source: the file).

On August 5th 2015, by order of the Commander of the local GNR, C was taken to the Hospital from (...) for a clinical-psychiatric evaluation due to the fact that at 10 am, he appeared at the GNR Station of (...), visibly nervous and upset, with inconsistent speech, strong emotional imbalance, constantly claiming to put an end to his life as soon as he left the Police Station; and also because "on July 31st 2015, as well as on August 4th 2015, the GNR of (...) collected information that **C** suffers from schizophrenia, not taking his medication regularly".

The information from the Psychiatry and Mental Health Service of the Hospital Centre (...) is as follows:

"Followed in Psychiatry and Psychology in the Hospital of (...) with diagnosis of Schizophrenia.

At the time of the observation, in the context of the Emergency Service on August 5th 2015, no acute psychopathological alterations were found that would fit the identification of a "serious mental disorder" with the need for compulsory hospitalisation. The patient was discharged medicated and referred to psychiatric and psychological consultations in his area of residence, where he is already being monitored".

Information from the Psychiatry Department of the Hospital Centre (...)

a. According to a Clinical-Psychiatric Assessment Report, dated from November 10th 2015 (which is in the judicial file), **C** started his psychiatric follow-up on April 4th 2011, having attended medical appointments (in the time limit of this review) on January 1st 2014, February 2nd 2014, August 22nd 2014 and February 6th 2015.



"He presents a diagnosis of mental disability with maladaptive personality traits: impulsivity and immaturity."

- b.** Complementarily, already in the course of the present review, the following relevant information was obtained:
- i** He has been attending scheduled appointments without showing motivation and involvement in the therapeutic relationship;
 - ii** **C** does not suffer from a schizophrenic illness;
 - iii** **C** is psychopathic, acts in an immediate manner and according to his whims, possibly enhanced by the consumption of psychotropic substances;
 - iv** **C** has the profile of a rapist and/or a murderer;
 - v** Needs restraint measures⁵.

Proceedings relating to narcotics use

An administrative offence proceeding for drug abuse was initiated against **C** in the Drug Addiction Dissuasion Commission from (...) (Law nº30/2000, of November 11th), but he never attended, despite several summons addressed to him, however, a decision was made to provisionally suspend the procedure.

Another case had already been brought against him there in the year 2010.

According to the DGRSP Social Report for Determination of Penalty and the list of criminal proceedings brought against **C**, he was convicted in 2015 for the crime of drug abuse.

⁵ During the trial hearing, which is the basis of this review, the court ordered a forensic psychiatric evaluation of **C** "in order to clarify whether or not, at the time of these facts, he was capable of evaluating the illegality of these, and determining himself in accordance with that evaluation". But this was not possible to determine "since it was not possible to know his whereabouts" and because "the process cannot remain "indefinitely" awaiting this diligence" (records of March 6th 2017).



4.2.3. Regarding Social Security action

Social Security family file

The Social Security District Centre of (...) family file, states that:

- a. The file was opened in July 2010, within the scope of social intervention;
- b. On 16th November 2010, **A** informed that she was separated from her husband (**B**), although continuing to cohabit with him, due to the inexistence of alternative housing. She intended to move with her son (**C**), because he was victim of aggressions by the stepfather (**B**), and she was advised to apply for a social pension;
- c. On 3rd June 2011, **A** went to social services and stated that **B** had Alzheimer's disease. She also informed that **B** had thrown **C** out of the house and that **C** was now living in a shed, on land adjacent to the house. **C** was, at this time, referred to apply for social disability pension;
- d. On 8th July 2011, **A** went to social services, accompanied by **C**, and requested support for **C**, who is living in a garage, in the same plot of land as the house, because his stepfather does not accept that he shares the same roof. She also requested support for medication, injectable, because she is in a situation of total lack of income;
- e. On 20th February 2015, **A** requested support to purchase medication for herself and her son (**C**) and for payment of house rent debt;
- f. On 4th August 2015, **A**, already hosted in the CAES of (...), came to social services in order to explain the domestic violence situation she and her husband were repeatedly subjected to by their son **C**. She said that they had already gone to the Public Prosecutor's Office of (...). Presented requests: removal of his goods from the house, even though he has no other place to stay, arguing that they know that the perpetrator is selling and damaging their goods; to ask the Public Prosecutor's Office for a restraining order for their son. These requests were communicated to the Public Prosecutor's Office on the 27th August 2015.



Clarifications provided by the Social Security District Centre of (...) of the Institute of Social Security.

In view of the collected data, the EARHVD requested, under the terms of no. 5 of article 42-A of the LVD and article 10 of the Ministerial Order no. 280/2016, of 26th October, clarifications to the Social Security District Centre of (...) of the ISS, IP on the 14th February 2018.

The questions asked and the answers obtained are transcribed below.

- 14.** In 2010 and 2011, Social Security records indicate an atmosphere of conflict between the three persons identified above, who were part of the same household, with express reference to the fact that **A**'s son, then aged 23, was a victim of aggression by his stepfather. Was any initiative taken, then, by Social Security to intervene in the family conflict, with a view to protecting the persons involved, preventing its continuation and possible aggravation? Was communication or collaboration established with other entity(ies) that should/could intervene in the specific situation?

*Within the framework of the consultations carried out in 2010 and 2011, **A** presented herself to Social Security as being separated from her spouse, despite living in the same house, because she did not have the conditions to find another housing solution, as she intended to live with her youngest son, **C**. She verbalized that the reason for this separation was due to the fact that there were many discussions between the step-father and **C**, mainly motivated by the fact that the latter did not have any work activity and lived at his expense, discussions that were extensive to the other step-child (...).*

*In this context, Social Security intervention aimed to directing **A** towards cash benefits/social pensions/RSI, with the objective of becoming economically autonomous and thus keeping her away from family conflicts.*

No communication was made with any other entity, because we did not realise in the first instance that this was a situation of Domestic Violence, but rather thought it was a situation of conflict between the aforementioned individuals, this was the reason why the entities with competence to intervene in situations of this nature were not involved.

*Between 2010 and 2011, **A** applies for Social Integration Income, indicating as her*



household her husband and her two children, and the process was rejected; her son **C** begins to receive a non-contributory disability pension (currently PSPI), with residence (...) in the municipality of (...), since 1st September 2011.

- 15.** Were there any contacts between those involved in this case and Social Security between December 2012 and February 2015? If so, what prompted it and what support was provided to them?

*Between December 2012 until 16th February 2015 there was no contact of those involved with Social Security, however on 17th February 2015 **A** was summoned for a social interview in the context of her application for old age social pension. On this date, her household consisted of herself and her son, both residing in (...), her fixed monthly expenses, totalling €331.17, being covered by **C**'s pension, as well as by relatives, more specifically, by her other two children. She stated that, at this date, she had been separated from her husband for approximately 8 months. It was attributed economic support to **A** for the payment of medication in order to ensure the regular taking of the medication.*

- 16.** Has **A** ever requested support to enter a shelter as a result of conflicts with her husband and/or with her son?

***A** and **B** have never asked these Services for any support to integrate a Residential Structure for the Elderly or any other structure.*

- 17.** Have **A** and **B** ever requested support to enter a residential care facility as a result of conflicts with **C**?

Following the intervention, the couple accepts to integrate a shelter structure on the 3rd August 2015 from which they left on their own initiative on 26th August 2015. On the 12th August 2016, **C** is referred to a Shelter Centre for Homeless Persons and not to a domestic violence shelter.

*Moreover, given that the alleged aggressions on the part of **C** continue and given that the family is cohabiting again, we have taken steps to protect this couple. Thus, on the 23rd February 2018, the spouse was integrated in an ERPI, after his consent. However, the couple's daughter has stepped back and no longer accepts her mother in her home. In the meantime, the couple's daughter has stepped back and no longer accepts her mother in her home, consequently we are also prepared for integrating the mother into an ERPI, if she accepts.*



Domestic Homicide Review

05.

**Timeline of the case -
graphic representation**

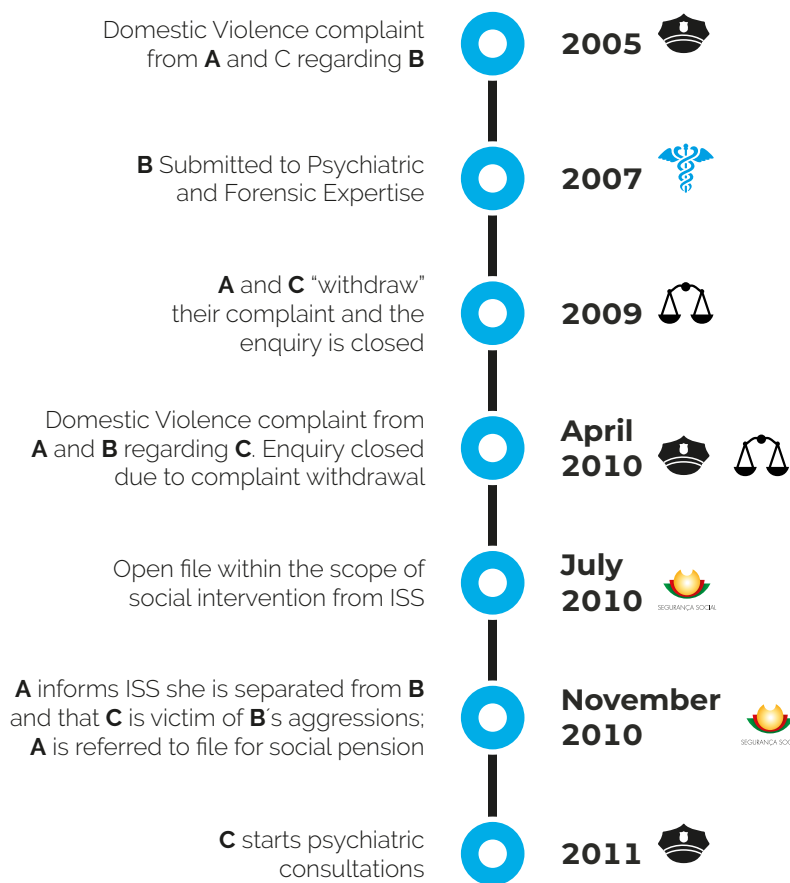


CHAPTER




05.

Timeline of the case - graphic representation








Timeline 2005-2017 From 2005 to 2013





- C** assaults **A** and **B** - report to PSP  **March 2011**
- A** informs ISS that **B** has thrown **C** out of the house and asks for support for **C**  **June/July 2011**
- Provisional suspension of proceedings. **C** subject to obligations. Termination for compliance  **2012/2013**

Timeline 2005-2017 From 2014 to 2017

- C** psychiatric consultations  **January/February and August 2014**
- C** psychiatric consultations  **2015**
- C** went to live with the victims and demanded money from **A** and **B**  **June 2015**
- Attempted murder of **B** by **C**. GNR called via 112 emergency line  **July 2015**
- GNR was called for assault on **A** and **B**. **A** and **B** refuse to go to a shelter  **29th and 30th July 2015**
- GNR attributes victim status and assesses risk (high level - 13 items identified)  **1st August 2015**
- C** threat **A** and **B**. Victim's request support at the GNR station. **C** threatens **A** and **B** by phone GNR witnesses. GNR contacts LNES and the victims are taken in at CAES  **4th August 2015**



GNR drives **C** to hospital under the Mental Health Law; he was not admitted. MP issues an order for the investigation and requires information on the transportation of **C** to hospital



**5th August
2015**



C is sentenced to suspended imprisonment with probation



**24th April
2017**



Legend



Opportunities for intervention



Contacts with Justice



Contacts with Police Forces



Contacts with Health



Contacts with Social Security

*RVD risk factors identified: in the RVD-1L of 1st August 2015, 13 risk factors were identified.

Nº1 - Has the offender ever used physical violence against the victim? How many years ago did the 1st episode occur: 4/5 years;

Nº2 - Has the offender ever used physical violence against others in the household?

Nº3 - Has the offender ever tried to strangle (try to choke), suffocate, drown the victim or other family member?

Nº5 - 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?

Nº6 - Has the number of violent episodes and/or their severity increased in the last month?

Nº7 - Has the offender ever used/threatened to use any kind of weapon against the victim or other family member, or does he/she have easy access to a firearm?

Nº8 - Do you believe that the offender is capable of killing you or your family member (are you convinced that he/she is capable of that)?

Nº9 - Has the offender ever tried to or threatened to kill the victim or another family member? Nº11 - Does the offender display emotional/psychological instability and is not being monitored by a health professional or not taking prescribed medication?



Nº13 - Does the offender have problems with alcohol or other drug use that make normal daily life difficult (in the last year)?

Nº14 - Has the offender had previous criminal complaints?

Nº16 - Does the offender have significant financial problems or difficulties in maintaining employment (in the last year)?

Nº19 - Does the victim or any member of the household have special needs and/or no support from others?



Domestic Homicide Review

06.

The Review



CHAPTER

06.

The Review

6.1. Scope of the review

The review aims to draw conclusions and formulate recommendations based on the knowledge of the course of action of the actors involved in the case and the actions of the entities that interacted with them until the occurrence of the facts that led to the opening of the criminal procedure in which **C** was convicted for the homicide attempt. In the present case, we will take into account all the facts leading to the events of the 5th August 2015, the day after the last facts known in the judgment that convicted **C**, when he was taken by the GNR to the Hospital of (...) to undergo a clinical-psychiatric evaluation.

Events occurring after 5th August 2015, determined in the course of the investigation of the present case, are reported only insofar as they were considered relevant for a better understanding of the situation under review.

6.2 The family background of the parties to the conflict

The perpetrator (**C**) was away from his mother (**A**) between 7 and 14 years of age, living then with his father, and was manifesting, throughout time, a maladjusted behaviour pattern, resorting to aggression, namely in the domestic space, and establishing interpersonal relationships with peers with dysfunctional lifestyles.

Despite having five siblings (one full sibling, three uterine and one consanguineous - half sibling on the paternal side), there is only information of contacts with one sister, everything indicating the inexistence of a close relationship with the remaining siblings. This relational distancing also happens between the mother (**A**) and the stepfather (**B**) and the other siblings of **C**.

The conflicts between **A**, **B** and **C** are known at least since 2005 and have unleashed, as already mentioned, several criminal proceedings, with **C**, who was initially a victim



becoming the aggressor as the stepfather (**B**) became physically weaker, intensifying the escalation of violence, resorting to aggression directed at **B**, but also at his mother (**A**) and to their material possessions, usually when his wishes were not promptly fulfilled (money for addictions or for the acquisition of goods).

C's communication style with others, inside and outside the family, is based on an aggressive pattern and whenever he senses an external factor as threatening, he engages in acts of intimidation, threat or physical aggression.

6.3 The different interventions

The information gathered shows that the members of the family unit in which these facts occurred, and in particular **C**, had contacts/were supported and were the target of intervention of entities of several sectors of public-state action throughout several years, of which concrete data was collected from 2005 onwards. Support and interventions that always occurred without intersectoral communication and dialogue, whether for the coordinating actions, for a better understanding of the problem or just for reporting information. In each sector, they were characterised by reactivity to the knowledge of new episodes and by isolated and not very assertive responses.

6.3.1. Criminal Justice

Between 2005 and 2011, three enquiries were identified and processed at the Public Prosecution Service of (...), due to acts of aggression in which **A**, **B** and **C** were involved:

- g.** In the first of them (2005), the perpetrator was **B** and the victims were **A** and **C**. The facts were then characterised by the criminal police as "domestic violence", although this type of crime was only created in 2007 (article 152 of the Criminal Code, in the wording of Law N^o59/2007, of 4th September). At the time, this type of behaviour was likely to be included in the provision of article 152/ CP (crime of maltreatment), whose criminal procedure did not rely on a complaint. The investigation was, however, closed due to the withdrawal of the complaint approved by the Public Prosecutor's Office because, as stated in the final order, "there are only indications of the practice of a crime against physical integrity".
- h.** In the second case (2010, which incorporated two others from 2009), which concerned reciprocal aggression between **B** and **C** and various threats made by **C** to



A and **B**, facts that were initially classified as constituting the crime of domestic violence, the complaint was also withdrawn, which the Public Prosecutor's Office approved because it considered, in the end, as crimes of offence against physical integrity and threatening, determining the closure of the investigation.

- i. In the third case (2011), the perpetrator was **C** and the victims were **A** and **B**. The facts were classified as crimes of qualified and simple physical integrity offence and the provisional suspension of the process was determined for a period of 9 months. Although the Public Prosecutor initially considered that the "integration [of **C**] in a training programme works as an organising factor of his behaviour", he maintained the decision to provisionally suspend the process even after he declared he had abandoned the vocational training course, waiving the initial injunction to "continue attending the locksmithing course (...), complying with the schedules and guidelines of his trainer".

None of these procedures, given the information contained in them, were able to contribute to the prevention of future aggressive behaviours or to the social (re)integration of **C**. The first two were closed, due to the complaint's withdrawals, although initially the facts had been considered as possibly constituting a public crime; in the third one, the plan of conduct to be followed by **C** abdicated an obligation considered relevant for re-socialisation and for the prevention requirements.

6.3.2. Social Security

The process regarding this household was initiated in the year 2010. The Social Security records of the years 2010 and 2011 indicate an environment of conflict between **A**, **B** and **C**, referring then that **C** was a victim of aggressions by the stepfather (**B**).

The action then triggered was only reactive, in response to the requests formulated and limited to dealing with issues concerning social benefits. There was no initiative to tackle the family conflict and disruption from the Social Security professionals, nor any communication, referral or cooperation with any other entity, with the aim of developing an adequate intervention for its resolution.

6.3.3. Health

- a. **C** was found to be using narcotics, which led to the opening of an administrative



offence process at the CDT (...), at which, despite having been summoned several times, he never complied. And, therefore, he was not the target of any effective intervention.

As such, the intended deterrent effect of the proceedings was not achieved.

- b. C's** attendance at the psychiatric services, started in 2011, but was very irregular and, according to the information gathered, there was no regular monitoring or treatment.

There were gross discrepancies in the information about the diagnosis over time: the Hospital Centre of (...) states, on the 10th November 2015, that the diagnosis is "mental disability with maladaptive personality traces, impulsivity and immaturity", but, in a document of 17th August 2015, the Psychiatric and Mental Health Services of (...) had stated that **C** is "followed up in Psychiatry and Psychology consultation at the Hospital of (...) with a diagnosis of Schizophrenia"; already during the course of the present review, information was obtained regarding that this is not a case of "schizophrenia".

Similar discrepancies are also found in the assessment of the danger he represents to others.

Moreover, as the court had raised the possibility that **C** was not imputable due to a psychic anomaly, it eventually waived the forensic psychiatric expertise because it could not find him at the time and also understood that "the process cannot be «indefinitely» awaiting this diligence".

6.3.4. Police intervention on the 29th and 31st July and on the 4th August 2015

On 29th and 31st July and 4th August 2015, the GNR proposed and advised victims **A** and **B** to leave their home, where the perpetrator (**C**) was also present, and go to a shelter home.

On none of these occasions was the possible arrest of **C** considered: whether in the act (of committing the offence), which could have occurred on 31st July (article 256, 2. CPP); or not in the act, by application of the provisions of articles 30, no.2 and no. 3 of Law 112/2009, of 16th September (then, in the wording of Law 82-B/2014, of 31st December).



It should be stressed that the risk assessment carried out on the 1st August 2015 (RVD-1L) assigned a high risk to the victims, consistent with the occurrence of a new conflict on the following day 4, which forced them to flee and go to the GNR station. And that, in that file, it was stated, in the measures to be adopted, "to verify if the assumptions to arrest the perpetrator out of the act have been met", however there is no record of any diligence in that sense, namely no contact with the Public Prosecutor's Office to evaluate the situation. On 5th August 2015, as already mentioned, **C** was taken to the Hospital of (...), under the Mental Health Law.

The victims were eventually admitted, on the 4th August 2015 to a centre for people in a social emergency situation, and the perpetrator **C** remained in their residence at least until 27th September, date on which the rental agreement ended. His detention would have allowed the investigating judge to apply coercive and control measures, which would have prevented the victims from having to leave their own residence.

The MP received the GNR's dispatch on the 5th August 2015 and also a communication from the Social Security District Centre on the 27th August 2015, informing that the victims "verbalised [that] they wished their son's removal from the family home", and did not take, at the time or subsequently, any initiative with a view to the victims' return to their home.

6.4 Characterization of the interventions

Despite all the intervention described in 5.3., the cycle of violence in this family unit was never interrupted or contained, which PSP summarized in the following terms: "since 2005, (**C**) has been subjected to a family and external environment of violence, initially as a victim, and that from a certain moment on starts to externalise, and he joins groups of young people and starts to adopt risk behaviours (drug abuse) and engaging in acts of violence towards people known to him or even in his closest circle, such as his girlfriend(s) and relatives".

- a. Despite the contact of several entities with the members of this family unit throughout the ten years that preceded the facts underlying the process that triggered this review, the isolated action of each of them never made it possible to interrupt the cycle of violence that was building up, in which the risk factors identified in the RVD-1L were already present.

This action was characterised by:



1. By merely reacting to events brought to their attention by victims amidst acute and crisis situations;
2. The absence of effective information flow, dialogue, articulation and the definition of any strategy between services/entities to deal with this dysfunctionality and family conflict;
3. The discontinuity and little assertiveness of these interventions based on a partial knowledge of the problem.

The “effective cooperation between all relevant bodies, institutions and organisations” is one of the aspects of the integrated policies led by the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, adopted on 11th May 2011 and entered into force on 1st August 2014), whose explanatory report highlights the importance of “effective multi-agency cooperation”, which “should not rely on each other’s belief in the benefits of information sharing, but requires guidelines and protocols to be followed by all services, as well as sufficient training of professionals in their use and benefits” (article 7).

- a. The option taken in 2015 for the investigation of the case in which the conviction that triggered this review was pronounced, to privilege the removal of the victims from their residence and little steadiness in the relationship with their aggressor, represented the continuity of a hesitant action in the face of the already described framework of family violence, both in what concerns the protection of the victims and in what concerns the restraint of the offender.
- b. The family conflict remains current and continues, as it results from the information collected, present in the file, with the DGRSP (interim report, of January 2018, in which the “risk of recurrence” is referred), the Social Security District Centre (clarifications provided on 14th February 2018) and the health services, but goes beyond the scope of the review that the EARHVD is legally entitled to make, whose conclusions, however, should be considered in the future action.



Domestic Homicide Review

07.

Conclusions



CHAPTER

07.

Conclusions

From the previous exposition, the following conclusions are drawn:

1. The violent relationship between **A**, **B** and **C**, known at least since 2005, triggered several criminal proceedings, as well as police, health services and social security intervention. Having been initially a victim, **C** became the aggressor as the step-father (**B**) became physically weaker and the escalation of violence intensified, resorting to aggression directed at **B** but also at his mother (**A**) and at their material possessions. The attempted murder for which **C** was convicted in the judgment that gave rise to this review is an expression of the escalation of the conflict.
2. These interventions regarding **C** and his family in general were characterised by being merely reactive, fragmented, discontinuous and without articulation or communication between them, and unable to interrupt the violence cycle.
3. The removal of the victims from their own homes, to be placed in a shelter for people in a situation of social emergency, allowing the perpetrator to remain in their house, sends the wrong signal, both in what concerns the protection and defence of the rights of the victims and in what concerns the restraint of the perpetrator.



Domestic Homicide Review

08.

Recommendations



CHAPTER

08.

Recommendations

In light of this review, the following recommendations have been formulated:

- 1.** The services/entities that intervene or have knowledge of a situation of violence in a family context should seek to obtain information about other entities that also intervene in it and refer it to those that should intervene in the case. The services/entities intervening in the same situation of violence within a family context should organise the transmission and sharing of relevant information among themselves, establishing the coordination of their actions, with a view to a more informed, coherent, articulated and effective action, without dispersion of resources - namely from the areas of education, justice, social security, health, internal administration, as well as those which integrate the national support network for domestic violence victims.
- 2.** In criminal proceedings, the judicial entities should always consider prioritizing the removal of the aggressor from the residence where the crime has been committed or where the victim lives (with the possible use of remote-control technical means) rather than the removal of the victim from her residence and placement in temporary shelter residential units (domestic violence shelters).

Lisbon, 19th April 2018

Representative of the Ministry of Labour, Solidarity and Social Security

Dr.^a Cristina Serém

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 General Secretariat of the Ministry of Internal Affairs

Dr. António Castanho

Representative of the territorially competent Police Force (GNR)

1st Sergeant Sandra Isabel da Costa Ribeiro, (Non-permanent Member)

Representative of the Institute of Social Security (ISS, IP)

Dr.^a Paula Pereira, (Eventual Member)

Approval of the Case Report no. 3/2017-CS

(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 judiciary, police, health and social security services. As the Report states, the performance of the various entities was characterised by mere reactive action to events that were known, by the absence of information exchanges amongst themselves and of coordination among the various services/entities and by the discontinuity and little assertiveness of their interventions.
3. The review procedure defined in the norms that regulate the activity of the EARHVD 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 established and the shortcomings evidenced in the approach to the case.

For all the above reasons, I approve the Report.



The Report should be sent to all entities permanently represented in the EARHVD, to the General Command of the GNR and to the President of the Institute of Social Security, IP.

The Report should also be sent to:

- *Portuguese Judicial High Council*
- *Ombudsman's Office*
- *Deputy Secretary of Health*
- *CIG*
- *National Directorate of the Public Security Police*
- *National Directorate of the Judicial Police*
- *Social Security Institutes of the Azores and Madeira*
- *National Institute of Legal Medicine and Forensic Sciences*
- *Directorate-General for Health*
- *Service for Intervention in Addictive Behaviours and Dependencies*
- *Directorate-General for Reintegration and Prison Services*
- *National Commission for the Promotion of Rights and Protection of Children and Young People*
- *Centre for Judicial Studies*

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

26th April 2018

Rui do Carmo
Coordinator of EARHVD