

Case: **3/2018-AM**



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

FINAL REPORT

Domestic Homicide Review

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Contents

01. Identification of the case	04
1.1 The judicial conviction and the review decision	05
1.2 Characterisation of the parties involved	06
02. Composition of the review team and information sources	08
03. Collected Information	10
3.1. Matter of proven fact in judicial proceedings (summary)	11
3.2. Acquisition of knowledge of the facts that initiated the criminal procedure and immediate subsequent action	14
3.3. Other relevant information during judicial intervention (source: Case file)	17
3.4. Sheltering the victim and follow-up	19
3.5. Concerning the health sector	20
3.6. Previous criminal proceedings	21
3.7. A's hearing	24
3.8. Other references	26
04. Timeline of the Case - graphic representation	27
05. Review	34
5.1. A long journey of violence	35
5.1.1. The testimony and the perspective of the victim	35
5.1.2. The judicial interventions of 2007 and 2015	36
5.1.3. The institutional journey and the support provided to the victim	39
5.2. The attempted murder in 2017	40
5.2.1. The knowledge/acquisition of the information about the crime and the subsequent police action	40
5.2.2. The information about the perpetrator conveyed by social reports	41
5.3. The victim as subject of the process	42
5.4. The need to preserve private information	44



06. Conclusions	46
07. Recommendations	49



Domestic Homicide Review

01.

**Identification
of the case**



CHAPTER

01.

Identification of the case

1.1 The judicial conviction and the review decision

This review document concerns the facts that were the subject of the Process no. (...).

Pursuant to the provisions of the paragraph 4 of article 10, of the Ministerial Order no.280/2016, of the 26th October, which regulates the Domestic Homicide Review procedure, the identification of the parties is presented as follows: **Victim (A)** - conjugal partner of the perpetrator; **Perpetrator (B)**.

In the process identified above, a definitive conviction decision was issued by the Judicial Court of the District of (...) in (...) 2017. **B** was convicted by cumulative sanctions to 6 years' imprisonment and to accessory penalties of prohibition of contacts, including the prohibition of approaching within 1,000 meters of the victim's (**A**) home and workplace, and he was also prohibited using and carrying weapons, both for a duration of 4 years and 6 months, for the commission of the following crimes:

- Crime of domestic violence [article 152, paragraph 1, item a), and paragraph 4, of the Penal Code];
- Crime of aggravated murder, in the attempted form [article 22, paragraphs 1 and 2, item b), article 23, paragraphs 1 and 2, article 73, paragraph 1, items a) and b), article 131 and 132, paragraphs 1 and 2, item b), of the Penal Code];
- The crime of resisting and coercing a civil servant (article 347, paragraph 1 of the Penal Code);
- The crime of possession of a prohibited weapon (article 86, paragraph 1, item d), by reference to article 2, paragraph 3, item p) of the Weapons and Ammunition Law).



The homicide in the attempted form, under consideration in the present report, occurred on (...) 2017.

In light of the provisions of paragraph 1 of the article 4/A of Law No. 112/2009 of 16th September (legal regime applicable to the prevention of domestic violence, protection and assistance to its victims - LVD), the situation under review falls within the scope of the cases to be reviewed by the Domestic Homicide Review Team (EARHVD), as it is a situation that complies with item a) of no. 2 of article 3 of the Rules of Procedure of the Team, as it is a situation that may be considered as a violation of the law. In this case, the victim was the perpetrator's conjugal partner of **B**.

1.2 Characterisation of the parties involved

Characterisation of the Victim A - conjugal partner of B

- Gender: Female
- Date of birth: (...) 62 years old at the time of the facts
- Marital status: Married
- Nationality: Portuguese
- Occupation: Cleaning worker/housekeeper
- Employment status: Retired
- Municipality of residence: (...)

Characterisation of the Perpetrator (B)

- Gender: Male
- Date of birth: (...) 59 years old at the time of the facts
- Marital status: Married
- Nationality: Portuguese



- Occupation: Construction worker
- Employment status: Active, occasionally working in construction
- Municipality of residence: (...)



Domestic Homicide Review

02.

**Composition of the
review team and
information sources**



CHAPTER

02.

Composition of the review team and information sources

The review procedure started on the 19th July 2018 and ended on the 22nd May 2019.

The Domestic Homicide Review Team (EARHVD) was composed by its permanent members, a non-permanent member representing the Republican National Guard (GNR) and an occasional member, representing the Private Social Solidarity Institution (IPSS).

Pursuant to articles 4 and 4/A of the LVD and 10 and 13 of the Ministerial Order no. 80/2016, of 26th October, this review was based in the documentation and information obtained from the justice system, criminal police, health sector, social security services, non-governmental organizations, social support structures and in the victim's hearing.



Domestic Homicide Review

03.

Collected Information



CHAPTER

03.

Collected Information

3.1. Matter of proven fact in judicial proceedings (summary)

1. **B** married **A** in 1981 and since the beginning of their relationship has lived in the residence located at (...). They have a daughter together, born in 1985.
2. During the course of their marriage, two criminal enquiries were opened, investigating facts that could be considered a domestic violence crime committed by **B** against **A**. One of those enquires (from 2007) was archived and the other (from 2015) was provisionally suspended for eighteen months and archived (in 2017) because **B** had fulfilled the obligations imposed on him.
3. After being notified of the archiving of this last enquire, **B** insulted again **A**, calling her "whore", "mischievous" and "cow" and telling her "you are worthless", proceeding in this way whenever she contradicted him or did not do what he wanted.
4. **B** was even absent from home for a week. Whenever **A** raised the possibility of a divorce, **B** would reply, "My wife won't belong to anyone else".
5. On the day (...) of 2017, at about 3.45 pm, **A** and **B** went to get the firewood he had collected from the river (...), which was in a barge by the shore. When they arrived there, they both unloaded the firewood from the barge into the van in which they were transporting themselves, **B** having asked **A** to help him to push the boat.
6. When **A** approached the riverbank, **B**, taking advantage of the fact that there were no witnesses around, grabbed **A** by the arms and made her fall into the water, pulling her to a deeper part of the river. He put his hand on **A**'s head, pushing her down so as to submerge her completely, holding her tightly by the arms, neck and



head, in order to prevent her from breathing and thus taking her life. **A** struggled to free herself from **B** and not to drown, and screamed for help on the occasions she managed to pull her head out of the water, but **B** would push her back under again, while saying: "You can scream all you want, today you have no saints to help you, today is your last day".

7. At a certain moment, a person passed by, on the other side of the river, who, faced with **A**'s cries for help, shouted to **B** that he was filming him and that he would report him to the GNR. Surprised at such behaviour and afraid of being identified and arrested, **B** eventually let go of **A**, who managed to get out of the water and grabbed her cell phone to call for help. However, **B** hit her on the hand, causing the mobile phone to fall, and punched her on the right cheek hitting her in the eye.
8. **A** tried to run away from the scene, but **B** followed her in his van and ordered her to get into it, threatening to cut her neck with the pruner and she obeyed fearing that he would make another attempt on her life. Nevertheless, she did not put on her seat belt and did not lock the car door so that she could run if necessary.
9. Once they arrived at the house, **A** only entered the house after **B** had left, because she feared that **B** would make another attempt on her life. That same night, **B** returned home and slept in the couple's bedroom, while **A** slept in the living room, as had already been happening, remaining alert and fearful of his behaviour.
10. The aforementioned conduct of **B** directly and necessarily caused injuries in **A** that, on (...) 2017, had the following characteristics:
 - On the face: ecchymosis in the right periorbital region, with underlying edema, measuring 6x3cm; excoriation with a cicatricial crust on the nasal pyramid, median, measuring 1cm in length; purplish ecchymosis in the left submandibular region, measuring 1.5x0.8cm; and violet and purplish ecchymosis with a discrete yellowish halo, interesting the lobe of the left earlobe and the respective retroauricular region, measuring 6x3.5cm;
 - Chest: brownish ecchymosis with a yellowish halo in the right infraclavicular region, measuring 3.5x2cm; brownish ecchymosis in the left clavicular region, measuring 4x1.5cm;
 - On the right upper limb: several brownish bruises with a yellowish halo on the medial aspect of the arm, the largest one located on the proximal third, measuring



3.5x2.5cm; several brownish and yellowish bruises on the anterior aspect of the arm, the largest measuring 2.5cm in diameter; and

- On the left upper limb: a strongly purple ecchymotic area with a yellowish halo, on the middle third of the anterior and lateral faces of the arm, measuring 12x10cm.

- 11. B** acted with the intention of killing **A** by drowning, but failed because, when he was surprised by another person, he was afraid of being identified and arrested. That led **B** to drop **A**, who took the opportunity to get out of the water and run away from the river's edge.
- 12.** The police authorities came to have knowledge about the drowning attempt through social networks. As a result, (on the following day) GNR officers contacted **A** at her residence and directed her to a Long-Term Shelter (for domestic violence victims).
- 13.** Aware that the police forces were going to his house, **B**, foreseeing that he might be arrested, went missing and could not be found at his house or at the places he usually frequented, only returning there in the early hours of (...). On that date, being found by an inspector of the Judiciary Police (PJ), **B** assaulted him.
- 14.** Subsequently, 145 cartridges of calibre 12 mm loaded with lead shot of various granulations were found in the residence.
- 15. B** grew up in a household composed of his parents and four siblings, marked by some economic difficulties, but in which the intra-familial dynamic was functional and stable. At the age of 19, he married for the first time and had a son, and widowed two years later.
- 16.** At the age of 22 he met **A**, with whom he ended up marrying and living with for about 33 years, having a daughter. The conjugal relationship was marked by conflicts, and the break-up occurred following this drowning attempt and the defendant's subsequent imprisonment.
- 17.** When the facts occurred, **B** lived with **A** in his own house, together with their daughter and son-in-law, doing occasional and progressively scarcer work in the area of construction and wood gathering, the household's survival depending on **A**'s retirement and the other members' incomes.
- 18.** The daughter and the son-in-law had a somewhat conflictual relationship with **B** because they disapproved the aggressive behaviour that he directed at **A**.



- 19.** In other interpersonal relationship contexts, **B** presented a reserved posture, maintaining some superficiality in his friendships, work and family relationships, omitting his conjugal problems.
- 20.** Reflecting on the facts for which he is indicted, **B** manifests a discourse of excusing and minimizing his responsibility. He expresses the hope of living with **A** again, devaluing the suffering caused to her and denying any history of physical or verbal violence in the relationship. He signed the documents related to the litigious divorce in (...) 2017, but he does not agree with the break up.

3.2. Acquisition of knowledge of the facts that initiated the criminal procedure and immediate subsequent action

- a.** Post on the social network Facebook, on the [same] day

On the very day that **A**'s drowning attempt occurred, the person who, from the other bank of the river, shouted to **B** that was filming him, posted on the social network Facebook the following:

"Today on the riverbank of (...) it was 15 hours and 40 minutes in the afternoon and I heard a call for help from a woman's voice and I noticed that a man was trying to murder a woman by drowning on the banks of the river (...) when I noticed this severe attempt on human life I shouted from the other bank of the river that I would report it to the GNR, so the man let the woman free from death and recognized me, and the woman then already all dirty with mud and water, fled from this human monster who lives in (...). That is why I am hereby denouncing this case that I witnessed today to the victim support associations but also to the authorities and even to the Public Prosecutor's Office/MP."

- b.** Knowledge by the GNR and immediately subsequent action

b).1. On the (following) day, the GNR became aware "that on the social network Facebook had been published a video of an individual trying to drown a woman on the riverbanks (...), existing also information that the suspect was an individual resident in (...) known by the name of (nickname)". According to statements given by the author of the images and the Facebook post to the Judiciary Police "at the beginning of the night he was very surprised when he found that he already had



more than twenty thousand views and hundreds of messages, from anonymous, to journalists and institutions, including the GNR of (...), which provided a mobile phone number and asked him to contact the local station."

The GNR went to the residence of the people involved in this situation and the officers were "attended by a woman, and it was immediately verified that she had a very visible bruise in her right eye".

As the aggressor was not found at home, they advised **A** that it would be better to refer her, for her safety, to a Long-Term Shelter (for domestic violence victims), "(...) and she retorted numerous times that she was afraid to leave the residence, stating that if her partner suspected that she had left the house he would kill her, having used several times the expression *he will kill me, he will kill me*." However, she eventually agreed to be transported to the GNR station, after which she went to receive medical treatment at the hospital and was later referred to a Long-Term Shelter (for domestic violence victims), through the National Social Emergency Hotline - 144, "due to the fact that none of the victim's relatives were available to accommodate her, on the grounds that they were afraid that the suspect would go after the victim."

In contact with the GNR, **A** stated that **B** was "very jealous, controlling all her daily movements, in order to prevent her from communicating with neighbours" and that she "had already asked him for a divorce but he won't sign the documents, threatening that the day she leaves him he will end her life".

b).2. On the same date, the status of victim was assigned to **A**.

b).3. Risk assessment was also implemented.

The only source of information for **RVD-1L**¹ was the victim, and a YES response was obtained to the following 10 risk factors:

No. 1 - "Has the offender ever used physical violence against the victim? Specify: How many years ago the first episode occurred:" YES, 10 years;

¹ Domestic Violence Risk Assessment



No. 2 - "Has the offender ever used physical violence against other household members? Against whom? Other family members? Children? Pets?";

No. 3 - "Has the offender ever tried to strangle (try to choke), suffocate, or drown the victim or other family member? (Include acts of "physical torture" - e.g. burning, throwing acid)";

No. 6 - "Has the number of violent episodes and/or their severity increased in the past month?";

No. 8 - "Do you believe that the offender is capable of killing you, or having you killed (are you convinced that he/she is really capable)? (Ask this question to the victim only)?";

No. 9 - "Has the offender ever tried to or threatened to kill the victim or other family member? Specify: State who has been the target of the death attempt(s) or threat(s)?";

No. 10 - "Does the offender stalk the victim, intentionally intimidates her, display excessive jealousy and tries to control everything the victim does? (e.g., through text messages; entering the victim's and/or her family members residence/ workplace without their consent)?";

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 separated from the offender, attempted to/manifested intention to do so (within the last/next 6 months)? Specify: Separated, Attempted, Expressed intention to do so?" Attempted.

The calculated risk level was **high** and, as a result, it was decided to adopt the following measures:

- Propose to the Public Prosecutor's Office (MP) coercion measure to the offender;
- Reinforce, to the victim, the importance of considering the possibility of moving



away from the offender, for example, going to a shelter or moving with a family/friend/colleague of her trust in the first days (while the offender has not been arrested);

- Reference the victim to a support centre that will refer her to a Long-Term Shelter (for domestic violence victims).

b).4. In the emergency report of the health unit that assisted **A** on the day (...), is stated:

"Patient with 62 years old. Came because her husband allegedly assaulted her yesterday. Brought by the GNR because there was a complaint. She was allegedly victim of an assault by her husband. She says she was punched on the right cheek, and grabbed by the left arm. She presents a hematoma in the right periorbital region as well as bruising in the left arm region (in the shape of her fingers). The episode has been filmed (?). According to the records, it would have been at least the 3rd episode. Diagnosis: "Personal history of victim of physical abuse".

b).5. (two days later) the National Institute of Legal Medicine and Forensic Sciences (INMLCF) conducted an examination to assess **A**'s body damages. The forensic examination report stated that she had been placed in a Long-Term Shelter (for domestic violence victims) by an NGO. She also feels "...affected by what happened, [and] afraid to go back home. She says she is angry that her husband has not been arrested and that she had to leave her home to protect herself from him".

3.3. Other relevant information during judicial intervention (source: Case file)

- a. The perpetrator was arrested on (...) and, subjected to judicial questioning on the following day, and subjected to preventive detention.
- b. On (...), the victim delivered a statement for future reference, requested by the Public Prosecutor's Office/MP under the article 33 of the LVD, which claimed the victim's emotional dependence and fear of the perpetrator.
- c. The victim's risk was re-evaluated in (...), being again **A** the source of the information, and a YES answer was obtained to the following **8 risk factors**, in which specific indications are referred by her to:



No. 1 - "Has the offender ever used physical violence against the victim? How many years ago did the first episode occur? (*35 years ago, the victim was beaten by the offender with several slaps and the offender smashed the victim's head against a cupboard*)";

No. 2 - "Has the offender ever used physical violence against other household members? Against whom? (*The offender has already assaulted his children. He assaulted his daughter, about six years ago, who was then of legal age, and broke her nose, dislocated her jaw and cut her lip, for which she was treated at the (...) and (...) Hospitals. He also assaulted his son, about 20/25 years ago, knowing only that at the time he was admitted to the hospital of (...), full of bruises, having been hospitalized for one night*)";

No. 3 - "Has the offender ever tried to strangle (try to choke), suffocate, or drown the victim or other family member? (*Tried to drown the victim on the date of the facts*)";

No. 5 - "Was medical attention required after any assault and/or did the injuries compromise the victim's normal daily activities or those of other family members? (*In addition to the medical treatment received on the date of the facts, A says she had received treatment at least twice, about two years ago at the hospital in (...) and about 10 years ago had received treatment at the hospitals in (...) and (...), as a result of assaults at the hands of the offender*)";

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)? (*Believes that the offender is capable of killing her, since he has already tried*)";

No. 9 - "Has the offender ever tried to or threatened to kill the victim or other family member? (*Has tried to kill the victim at the time of the facts*)";

No. 14 - "Has the offender ever been the subject of previous criminal complaints? (*States that the offender has had two domestic violence complaints in addition to the one reported on the date of the facts. That in the first case the offender dropped the complaint and the second case was dismissed*)."

No. 18 - "Has the victim separated from the offender, tried/manifested intention to do so?; does she have support from others? (*They broke up*)."



The calculated risk level was **medium** and, as a result, it was decided to take the following action: reinforce the victim's personal protection guidelines (individual safety plan).

d. In the *Social Report to Support the Decision of the Sanction*, prepared by the Directorate-General for Reintegration and Prison Services (DGRSP), (...) it is stated that:

"In the socio-residential context, the defendant is known as a person with adequate behaviour and no criminal problems, according to information conveyed by the local criminal police agencies."

And further that:

"In the event of conviction, the defendant must be involved in personal and social skills training programs, aimed at reflecting on aspects related to affective self-determination and the legal rights at stake with his actions in this case."

3.4. Sheltering the victim and follow-up

a. On (...), the GNR communicated with the National Social Emergency Hotline (LNES), requesting emergency sheltering for the victim (**A**), and the following was registered:

"... request for shelter for **A** (...) situation is recurrent. There are some alternatives regarding family accommodation but, due to death threats, they are not cooperating. The situation has been assessed with a high risk. After information on institutional rules and procedures, **A** showed little receptivity to the sheltering solution. (...) After confirming the existence of a vacancy in a shelter (...), the Social Emergency Transport (TES) (...) was called to provide transportation from the GNR facilities in (...) to the institution. The victim was sheltered that night.

Social Security initiated the Local Network for Social Intervention (RLIS) Protocol, and **A**'s situation began to be supported and followed-up by the Services of the local Santa Casa da Misericórdia.

b. The victim, knowing that **B** was in preventive custody, decided to leave the shelter (6 days later). Then, the IPSS that had already been following her since 2015 restarted to follow her again.



In the report prepared by this entity is stated, "the situation of continued victimization has created and continues to have repercussions in the life of this woman, causing pain, fear, discomfort and anxiety. **A** presents sequels caused by the negative impact of the situation experienced, like some avoidance behaviours: returning to the traumatic place, getting into the van after the drowning attempt in the river (...)". She also presents "hypervigilance (when she hears some car or motorcycle noises, or dogs barking), she goes to the window, to check if everything is calm. She is afraid that this man will somehow attempt to harm her again or that he might ask someone else to do so. In her words: "I'm afraid that they'll let him go, that they won't tell me if they let him go, that he'll finish what he started or he'll send someone else to do it (refers to killing her)."

As for the perpetrator (**B**), it is mentioned "...some kind of work should be done with the alleged perpetrator, in order to prevent the recurrence of this type of crime or others, to develop assertive and healthy behaviours".

- c. The victim had already been in institutions in 2007 and 2015, at the time of the enquiries mentioned below in section 3.6.

3.5. Concerning the health sector

Besides the episodes of (...) 2007 [mentioned in 3.6. a)], the hospital emergency episode of 2015 [mentioned in 3.6 b)] and the episode of 2017 [mentioned in 3.2. b).4], in the information collected from the Clinical Directorate of the Local Network of Health Centres (ACES) of (...) has emerged that:

- a. in relation to the victim (**A**)

Between 25th August 2008 and 30th January 2019, were recorded 72 entries in "Clinical Consultation Records" at the health centre where **A** is registered, within the scope of "Adult Health".

From almost all the records, the existence of organic pathology stands out, deserving continued clinical vigilance and various diagnostic and therapeutic acts.

There is no record of any symptoms, signs or procedures that may be related to domestic violence, except in one situation: on (...) 2015, the following is recorded: "*Daughter comes, says that her mother is in a shelter, due to domestic violence by*



her husband ... The case is being taken to court".

b. Regarding the perpetrator (B)

Between 15th December 2008 and 14th December 2016, there are several records made in the primary health care services, under the scope "Adult Health", regarding medical follow-up for physical health issues (partly related to alcohol abuse).

On the 20th April 2016, he starts to receive the "Alcohol Abuse Disorder Consultation" at the health centre for "chronic alcohol abuse", with the last record on this subject being made on the 14th December 2016.

On the 15th December 2008 and on the 17th August 2009, a "certificate for the use and carrying of a hunting weapon" was issued for **B**.

3.6. Previous criminal proceedings

a. NUIPC (...)

On (...) 2007, a complaint was drawn up by the GNR, reporting the occurrence of domestic violence at a residence in (...). They found that it was an aggression perpetrated by **B** against **A**. **A** declared that she had been violently attacked by her husband with a broom handle and that he had threatened her with a firearm. She said that this type of aggression had been common over the years and that she had been victim of verbal aggressions on a daily basis.

The weapons that were in **B**'s possession (two hunting rifles) were seized, and he told the GNR Corporal: "If I don't have the weapons on Sunday to go hunting, then I'll finish them off! They are asking for it". A few days later, during a search on the residence, another rifle, a recreational weapon, two pistols, a revolver, gunpowder, powder and ammunition were confiscated. The accused was then arrested by GNR and given a non-detention order, which in a report dated of 8th February, the police considered insufficient and expressed the opinion that "only a liberty depriving measure would be proportional and adequate".

The victim was assisted at the hospital emergency on the same day (...), and according to the record:



"Victim of aggression by her husband, she was admitted with multiple signs of contusion, on the face, periorbital and torso, injuries described by the medical doctor who attended the patient. Scalp wound (...). Stayed in the services under clinical surveillance. The GNR was contacted and took charge of the occurrence. Social Worker contacted for referral to a safe place; Forensic Medicine contacted to examine the bodily harm".

The victim was in the hospital for 3 days, and (after) was sheltered in a Temporary Accommodation Centre (CAT) of the Portuguese Red Cross, where she stayed (for five and a half months).

- The facts, according to the available information, were considered "domestic violence", which, at the time, was likely to be included in the crime of spouses' maltreatment abuse, envisaged and sanctioned by the article 152, no. 2 of the Penal Code.
- There is information stating that the enquiry was archived/closed, but it is unknown the text that order, since the records were destroyed because the legal term for their conservation had been exceeded, remaining available only the partial digitalization of the GNR archives.

b. NUIPC (...)

- On (...) 2015, at 10.25 pm, the GNR of (...) was informed of a "situation of domestic violence between spouses". On the scene, **A**'s daughter reported that her father (**B**) "in a somewhat alcoholic state, was arguing with her mother, even assaulting her. Following the aggression, she tried to calm her father down, unsuccessfully, and he hit **A** on the face. He then "broke the kitchen table saying 'I want you to leave this house, you are ungrateful'".
- The victim was taken (that night) to the hospital emergency service, and the records states: "patient comes to the services for aggression - assaulted by her husband - GNR accompanies the patient - now with pain complaints in the left hemiface/cranial region - hematomas. She says she was assaulted by her husband at 10.00 pm, with kicks and punches, "he tried to choke me but I shoved him"; she says this is the second episode (2007). She says she has been death threatened - "your days are counted". "She's waiting for her daughter; she says she has nowhere else to go". Registered as a social case.



- A risk assessment (RVD-1L Form) was carried out, and 9 risk factors were marked with YES, the source of information being the victim. The risk was considered **medium**. It was stated that "the victim mentioned that in 2007 she was a victim of domestic violence (...)". As a consequence, it was considered adequate to propose to the Public Prosecutor's Office/MP the application of a coercive measure to the perpetrator and to emphasise to the victim the importance of distancing herself from the perpetrator, for instance, by going to a Long-Term Shelter (for domestic violence victims), or family/friend/colleague of her trust in the first days.

The re-evaluation (RVD-2L Form) was carried out on (...), and 12 risk factors were marked with YES, the risk being considered **high**. It was again proposed to the Public Prosecutor's Office/MP the application of a coercive measure to the aggressor and that the victim would be referred to the Teleassistance (remote) Programme.

- Two shotguns and cartridges were then confiscated from **B**.
- (two days later), the victim was taken to an Emergency Shelter (for domestic violence victims), after contact by her daughter with an NGO, and then to a Long-Term Shelter (for domestic violence victims). In an interim report (...), the GNR states that, after contacting the victim, "...she explained that she did not return home after the date of the facts due to fear of being again victim of further physical and psychological aggression by the accused, even fearing that he would carry out his death threats".
- When questioned in this enquiry, the victim (**A**) stated that, "in the criminal case of 2007, an agreement was made with the lawyers, and in the end, **A** gave **B** another chance". Further that "in the course of the violent aggression of (...) 2007 she was sheltered in the (...) for about 3 months but, following an article published in the newspaper (...), the location of the institution where the victim was sheltered was identified. Thus, **B** (...) started going to the door of the institution to ask **A** to return home, claiming that he would not mistreat her again, which, after much insistence, eventually happened."
- In (...), the Public Prosecutor's Office/MP enquires the victim, explains to her the temporary suspension of proceedings in the crime of domestic violence (article 281, no.7 of the Code of Criminal Procedure) and she requests its application. She also states, "What I want is for my husband not to beat me again, but it would



be important to make an evaluation of the alcohol and psychological situation." The temporary suspension of the case was ordered for a period of 18 months, and the defendant was subject to the following injunctions and rules of conduct:

- a. Accept follow-up by the Directorate-General for Reintegration and Prison Services (DGRSP), which will supervise his personal and social situation, namely with psychological and alcoholism evaluation, in order to referral to consultations or treatment if necessary;
 - b. Refrain from any threatening, insulting or offensive acts against the physical, psychological integrity or dignity of the victim;
 - c. Prohibit the possession of firearms during the period of suspension.
- After receiving a report from the Directorate-General for Reintegration and Prison Services (DGRSP), evaluating the execution of the measure, the Public Prosecutor's Office declared, in (...) 2017, the investigation dismissed because "the defendant (had) complied with the injunctions imposed on him". In the report was stated that the victim "informed that after the beginning of this process the defendant's behaviour has changed, being calmer and not reacting as aggressively as before, but it is not known how the relationship will develop after the end of this process".

3.7. A's hearing

The victim (**A**) was heard by the EARHVD in (...), with the support of the professional of the entity that provides psychological and social support to her. The written record of the hearing is in the file.

The questions asked aimed at obtaining more comprehensive and detailed information on the facts and the context of the domestic violence, at obtaining clarifications and her evaluation of the contacts with the police forces, the justice system and support and shelter entities.

Much of the information collected allowed to confirm and/or specify some of the facts already exposed in the previous sections, and were incorporated above.

Besides other data that will be referred in the review, the following is highlighted:



- The victim expressed "being very afraid of the perpetrator and that she was very criticized both by the various entities [with which she contacted] and by the community [that knew the situation], for being a woman and filing a complaint against her husband". In the contact with the police entities, she says that "if it is true that the first two times she felt "lack of support from the officers because she was a woman, the last time they were «impeccable»";
- In neither of the situations was her initiative to report the facts: she went "to the GNR station to file the complaint after the aggressions and consequent visit to the health services". In 2007, she went to a Temporary Shelter (unspecified) after the hospital's social service referral, dropped the complaint, the case was dismissed and she returned home and to live with her husband. In 2015, it was the medical doctor who attended **A** in the emergency service that gave her the contact details of an NGO;
- During the period when the case opened in 2015 was suspended, **B** was calm, although he was frequently absent, but the assaults resumed as soon as the case was dismissed;
- About her experience, she further stated that: (1) it is unfair that always have to be the victim who leaves home; (2) they should be informed about the course of the processes, which in her case did not happen, and she learned about it "from the newspapers and television"; (3) in this last case she left the shelter by her own initiative, because she knew, through this entity, that **B** had been arrested; (4) the appointment of a lawyer, which she requested, was only made 3 or 4 days before the trial; (5) a local newspaper, at the time of the first occurrence, published an article in which the institution where she was sheltered was identified, which allowed her to be located by the perpetrator (**B**);
- She informed that the divorce has already been declared, but she is afraid when **B** gets out of prison, because he still wants to contact her and they still have unresolved property issues;
- Refers that she was recently contacted by a "doctor" from the prison who told her that **B** might leave for two days and "she wanted to know if I would accept him at home".



3.8. Other references

In the enquiry about the facts for which **B** was convicted of the crime of attempted murder, it was identified the location of the institution where **A** was sheltered, as well as the professional who followed her during this period.



Domestic Homicide Review

04.

**Timeline of the Case -
graphic representation**



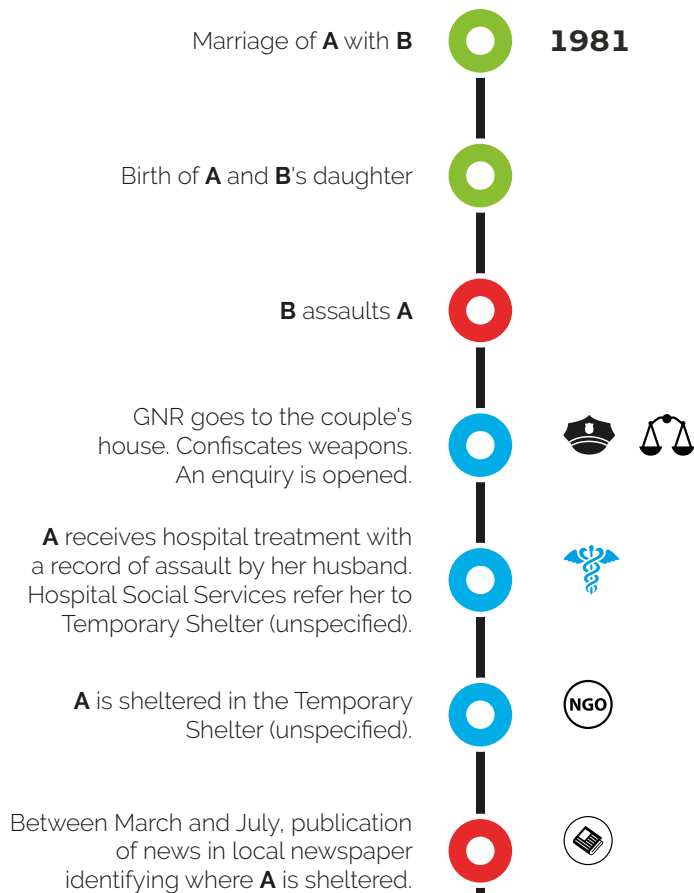
CHAPTER

04.

Timeline of the Case - graphic representation

Timeline 2007-2017

2007





B starts to go to the door of the Emergency Shelter to ask **A** to return home



Five and a half months later, **A** returns home. The case is dismissed



Legend

- Beginning of the relationship/birth of children
- Background/risk factors
- Opportunities for intervention
- Contacts with Justice
- Contacts with Police Forces
- Contacts with Health
- Contacts with Non-Governmental Institutions
- Press/media

Timeline 2015-2017

B assaults **A** in the couple's residence



GNR reports the crime of domestic violence, goes to the residence. Applies RVD-1L Form: 9 factors Yes - Medium risk.



A receives hospital treatment with record of assault by her husband. The medical doctor gives **A** an NGO contact.



The GNR makes weapons seizure to **B**

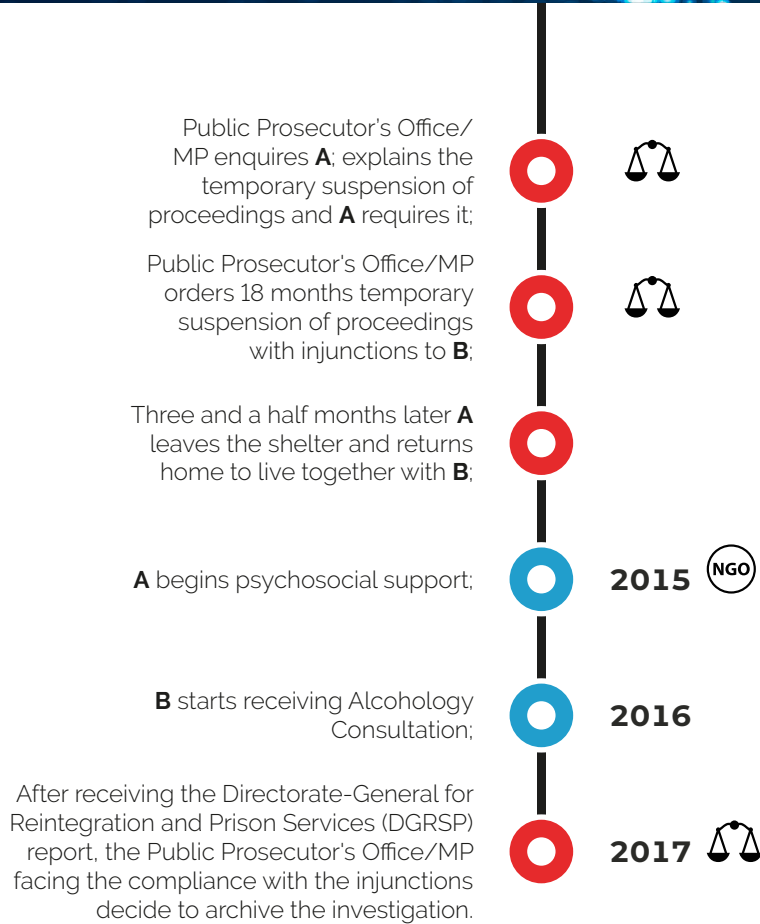


A goes to an emergency shelter (for domestic violence victims)










GNR applies the RVD-2L Form: 12 factors Yes - High risk





Legend

-  Background/risk factors
-  Opportunities for intervention
-  Contacts with Justice
-  Contacts with Police Forces
-  Contacts with Health
-  Contacts with Non-Governmental Institutions
-  Press/media

In RVD-1L Form, 9 risk factors were noted - MEDIUM risk:

No. 1 - "Has the offender ever used physical violence against the victim? Specify: How many years ago the first episode occurred: 7 years";

No. 2 - "Has the offender ever used physical violence against other household members? Against whom? Other family members? Children? Pets?";

No. 3 - "Has the offender ever tried to strangle (try to choke), suffocate, or drown the victim or other family member? (include acts of "physical torture" - e.g. burning, throwing acid)?";



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? (e.g. work/school/domestic chores)";

No. 8 - "Do you believe that the offender is capable of killing you, or having you killed (are you convinced that he/she is really capable)? (Ask this question to the victim only)";

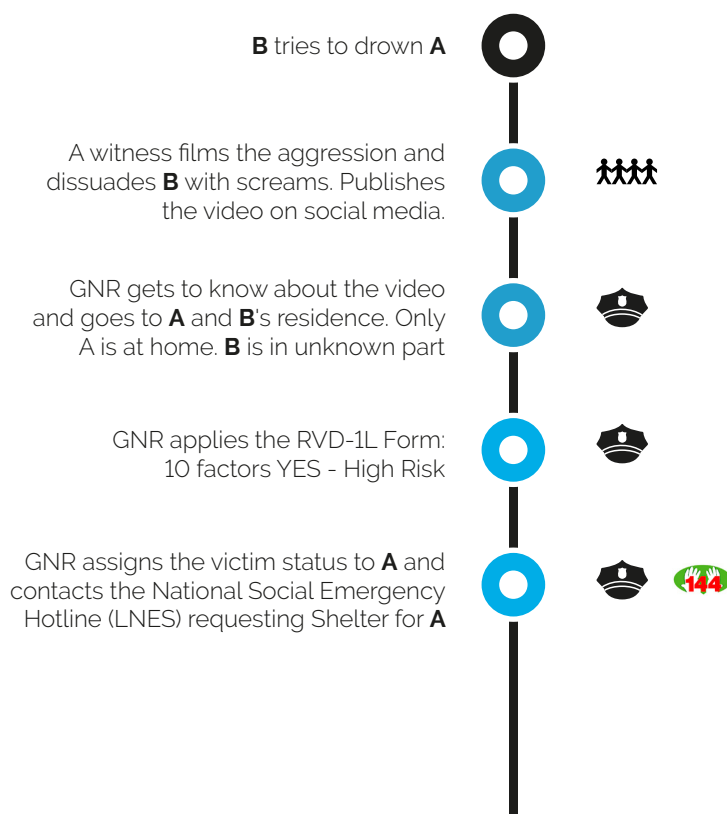
No. 10 - "Does the offender stalk the victim, intentionally intimidates her, display excessive jealousy and tries to control everything the victim does? (e.g., through text messages; entering the victim's residence/workplace and/or family members without their consent)";

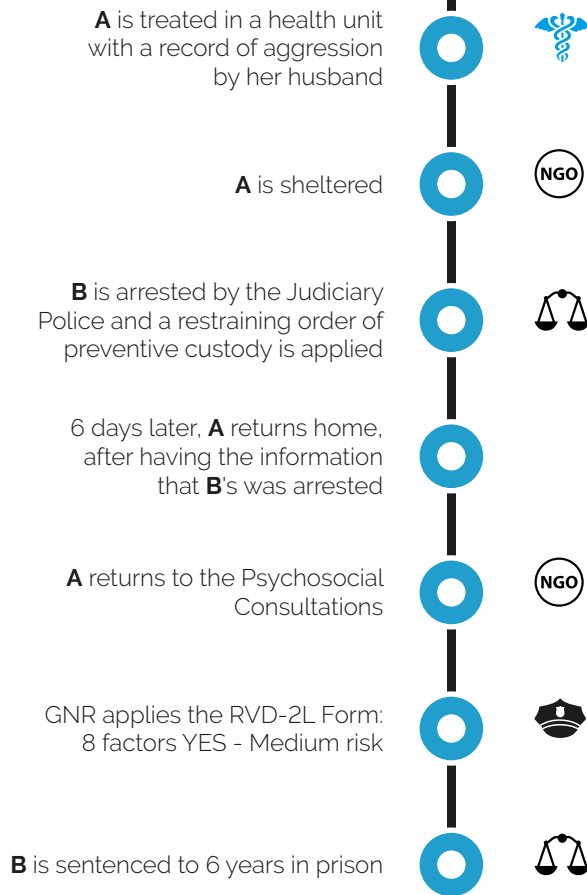
No. 11 - "Does the offender display emotional/psychological instability and is not being monitored by a health professional or not taking prescribed medication?";

No. 13 - "Does the offender have problems with alcohol or other drug use (including those requiring a prescription) that make normal daily life difficult (in the last year)?";

No. 14 - "Does the offender have a record of previous criminal complaints? (e.g. possession of a prohibited weapon, entering a place closed to the public, threatening/aggressions to a third party ...)?"

Timeline 2017





Legend

- Attempted Murder
- Beginning of the relationship/birth of children
- Background/risk factors
- Opportunities for intervention
- Civil Society Intervention
- Contacts with Justice
- Contacts with Police Forces
- Contacts with the National Social Emergency Hotline (144-LNES)
- Contacts with Health
- Contacts with Non-Governmental Institutions



In RVD-1L Form, 10 risk factors were noted - HIGH risk:

No. 1 - "Has the offender ever used physical violence against the victim? Specify: How many years ago the first episode occurred: 10 years";

No. 2 - "Has the offender ever used physical violence against other household members? Against whom? Other family members? Children? Pets?";

No. 3 - "Has the offender ever tried to strangle (try to choke), suffocate, or drown the victim or other family member? (include acts of "physical torture" - e.g. burning, throwing acid)?";

No. 6 - "Has the number of violent episodes and/or their severity increased in the past month?";

No. 8 - "Do you believe that the offender is capable of killing you, or having you killed (are you convinced that he/she is really capable)? (Ask this question to the victim only)?";

No. 9 - "Has the offender ever tried to or threatened to kill the victim or other family member? Specify: State who has been the target of the death attempt(s) or threat(s).";

No. 10 - "Does the offender stalk the victim, intentionally intimidates her, display excessive jealousy and tries to control everything the victim does? (e.g., through text messages; entering the victim's residence/workplace and/or family members without their consent)";

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 separated from the offender, attempted to/manifested intention to do so (within the last/next 6 months)? Specify: Separated, Attempted, Expressed intention to do so? Attempted".

Domestic Homicide Review

05.

Review



CHAPTER

05.

Review

5.1. A long journey of violence

5.1.1. The testimony and the perspective of the victim

The willingness shown by **A** to give her testimony allowed an approach that shall, whenever possible, be considered and valued - the voice of the victim!

The Team exposes the perspective of someone who feels the humiliation one day, the insults the next, the belittling the week after, the hair pulled after two months, a push and a punch in the face at the end of the year, and so on. Violence increasing, in a perfect synchrony with the length of the conjugality, while the victim's dignity goes in the opposite direction, the fear setting in - the expected life companion gradually metamorphosing into an enemy.

A married **B** at the age of 27, a 24-year-old widow with an infant son, who was raised by both of them. At the time of the attempted murder, **A** was 62 and **B** was 59. They were married for 35 years and had a daughter who was 32 years old at the time of the attempted murder. The divorce was declared in (...) 2018, with **B** already in prison.

The victim stated that the first physical aggression occurred when she was pregnant, but the abuse began shortly after she got married, a reality that she did not know, because it did not happen at her parents' home. She said that while living together she was very afraid of the aggressor and was criticized for complaining about her husband during this time, both by the entities she contacted and by the community that knew the situation. Family members, friends, neighbours, co-workers, the surrounding community, became aware of it, but, as a rule, chose not to see, not to hear, and not to speak out. In this very lonely journey, those who saw often looked away, those who heard often pretended to be deaf.

It is absolutely necessary, particularly in places where homicides have occurred in a domestic violence context, as already recommended by the EARHVD Team in the Case



Report no.2/2017-JP, to "develop awareness campaigns at the local level that promote the deconstruction of beliefs, myths and stereotypes about violence against women, based on the development of networking with municipalities and entities promoting the National Support Network for Domestic Violence Victims".

The victim emphasizes the importance of the health services, where she used to go and treat the injuries she suffered, protecting her from **B** and giving her access to entities that support and shelter domestic violence victims - which was decisive in overcoming the shame she felt about filing a complaint. And she points out the very positive evolution in the way she was welcomed and treated at the GNR station, between the first two times (2007 and 2015) and the third (2017).

She claims to have had a feeling of injustice and revolt when, in 2007 and 2015, she had to leave her home, and continued to be mistreated when she returned. During the 18 months when the 2015 enquiry was temporary suspended, she lived with her husband (**B**) in the common residence, although he was often gone for several days and returned only when he had laundry for her to wash, and the assaults began as soon as the enquiry was archived.

She benefited from follow-up from the domestic violence shelters, but that happened only while those enquiries were ongoing, which did not prove sufficient to give her the capacity to break the violence cycle in which she was trapped. She returned to those services after the attempted murder in 2017, attending several mutual aid groups that gave her confidence. (...)

5.1.2. The judicial interventions of 2007 and 2015

Before the attempted murder, whose final conviction triggered this review, there had been two other criminal proceedings whose facts consisted of physical abuse of **B** against **A**, which occurred in (...) 2007 and (...) 2015, that did not go beyond the investigation phase.

In 2007, the violence that the victim suffered, as already mentioned, was reported as domestic violence, and then crime of spouses' maltreatment abuse, described in article 152, no.2 of the Criminal Code, already had a public nature, that is, the criminal procedure was not depending on the victim's complaint. The Team only knows that the Public Prosecutor's Office/MP archived the enquiry and that the victim states that she has withdrawn her complaint. This would only have been possible with another criminal classification attributed to the facts, integrating them into another crime, of a semi-pub-



lic nature, i.e., whose criminal procedure depended on the victim's complaint - about which, however, there is no documentation, as mentioned above [3.6, a]).

In 2015, the facts reported were classified as a domestic violence crime (article 152, no. 1 of the Penal Code), which had been separated in September 2007, also of a public nature. The Public Prosecutor's Office/MP considered that there was sufficient evidence that **A** had been physically abused by her husband (**B**) in the couple's residence.

The law of criminal procedure already provided then (as it does today, in the article 281, no. 7 of the Code of Criminal Procedure) that, in these situations, the Public Prosecutor's Office/MP can provisionally suspend the enquiry "at the victim's free and informed request". This can happen with the agreement of the investigational magistrate, as long as the offender has not been convicted of any crime of the same nature nor benefited from any previous temporary suspension of proceedings and agrees to comply with obligations that are considered appropriate to prevent the commission of further offenses. Compliance with injunctions and rules of conduct may be set for a period of up to 5 years. The application of this institute depends exclusively on the victim's initiative, and the court must be convinced that the victim takes it in a free and informed manner; and the defendant may not agree, which makes its application unfeasible. The case will be dismissed if the obligations have been fulfilled; if not, it will proceed to trial.

The Public Prosecutor's Office/MP has summoned the victim and explained this regime to her, and she has requested its application. The degree of risk that **A** could again become a victim of mistreatment by **B** was high, according to the result of the application of the RVD-2L Form.

The closure of this investigation took place on (...) 2017 and the attempted murder that gave rise to the review occurred on (...) 2017 [3 months later]. The conclusion is that the application of the temporary suspension of the proceedings, in this case, did not achieve its objective, did not sufficiently meet the requirements of prevention that were felt (article 281, no. 1, item f) of the Code of Criminal Procedure). Not only did **B**, after three months, attempt to kill **A**, but, one of the injunctions being a prohibition on possessing firearms, he was then found in possession of a large number of cartridges loaded with lead.

The specific case makes it advisable to analyse: (a) whether, the situation having been considered "high risk", the Public Prosecutor's Office/MP should bring to consideration of the victim the possibility of application of the temporary suspension of the proceedings; (b) whether **A** presented the requirement in a free and informed manner; and, therefore,



(c) whether this was the appropriate response to **B**'s behaviour.

- a. Directive no. 1/2014 of 15th January of the Public Prosecutor's Office states that *"the Public Prosecutor's Office/MP, when, in view of the evidence gathered in the case file, considers that temporary suspension of the proceedings is appropriate in the specific case and the victim has not requested it, shall take the initiative of informing the victim personally, that the person may use that request, explaining about this procedure, its objectives, the measures that may be imposed on the defendant and the consequences of its application"* (Chapter X, 2).

As a rule, this initiative of temporary suspension of proceedings is not appropriate in cases of repeated violence and *high risk of revictimization*, such as the present case. And when it is the victim who takes the initiative to request it, and when it is concluded that she has done so in a free and informed manner, obligations must be imposed on the perpetrator that allow the protection and empowerment of the victim and are adequate for modifying the aggressor behaviour, namely by imposing his removal with electronic surveillance and attendance to programs with this objective.

- b. The application of the temporary suspension of the proceedings, in addition to the existence of sufficient evidence that facts were committed as part of the crime, requires that the public prosecutor and the investigational magistrate are convinced that the victim has fully understood the facts and that he or she acted of his or her own free will in requesting it. If not, an indictment must be filed in order for the perpetrator to be punished.

The victim (**A**) informed the GNR that she feared being the target of further aggressions. In the same report in which she requested the application for temporary suspension of the process, she stated, "What I want is for my husband not to beat me again, but it would be important to make an evaluation of the alcohol and psychological situation.". In view of the known information, there is serious doubt as to whether the victim was sufficiently enlightened and sure of her application.

- c. The temporary suspension of proceedings was ordered in (...) 2015 for a period of 18 months. The beginning of the Alcoholology Consultation for the defendant, which was one of the objectives, only started about a year later, in (...) (as mentioned in the final report prepared by the DGRSP). Reading this report, the information about how the plan of conduct imposed on the perpetrator was implemented is not sufficient. And it is possible to read that the victim, at the end of the suspen-



sion period, feared how the relationship "would develop [between herself and **B**] after the end of this process". The truth is that, as she now clarifies, the assaults resumed as soon as the case was dismissed. And the attempted murder occurred only three months later.

The conclusion is that, in this case, the application of the temporary suspension of proceedings, which demonstrated the weaknesses already analysed, did not meet the requirements of prevention, which is a prerequisite for the use of this institute of criminal procedure.

5.1.3. The institutional journey and the support provided to the victim

From 2007 to 2017, **A** had contact with several social institutions, both from the public sector and from the social and solidarity sector, and was occasionally followed-up by several structures of the National Support Network for Domestic Violence Victims (RNAVVD).

In 2007, she was sheltered for the first time, in a social response not specialized in domestic violence (Temporary Shelter from the Portuguese Red Cross), where she stayed (five and a half months). Then, an article was published in a local newspaper identifying the place where she was and allowed the perpetrator to go there, pressuring her to return home and asking her to forgive him. Not being a specialized structure to shelter and protect these victims, **A** felt pressured by the unease that the situation created in the institution and did not have the support she needed to break the violence cycle. She ended up returning home to live with the perpetrator.

In (...) 2015, she was again sheltered, for the first 10 days in an emergency shelter (for domestic violence victims) and for the remaining two months in a Long-term shelter (for domestic violence victims) of the RNAVVD. This happened after her daughter, on the recommendation of the medical doctor of the emergency service where she was rescued, contacted by phone the Victim Support Office of an NGO.

From these first two times, **A** had to leave her home and returned to it to live again with **B**.

In 2017, she was again sheltered, on the same day of the facts, and the National Social Emergency Hotline (LNES) referred the case to the district social security partner and the Local Network for Social Intervention (RLIS) Protocol was initiated. When **A** left the



shelter, she began to be followed by a Private Social Solidarity Institution (IPSS) in her area of residence, integrated in the Domestic Violence Regional Unit (NAV), which had already followed her in 2015. In this sequence of procedures, triggered by the events of 2017, good practices are implemented regarding psychosocial support of the victim, providing her with skills to better deal with the violence context.

In a report by the Domestic Violence Regional Unit (NAV) technical team, sent to the Court, it is mentioned that **A** is afraid that **B** will again attempt against her physical integrity or may ask someone else to do it: "I'm afraid that they will let him go, that they won't let me know if they let him go, that he will finish what he started or will ask someone else to do it...". According to the knowledge of **B**'s profile, the NGO recommended that "...some kind of work should be done with the alleged perpetrator, in order to prevent recidivism in this type of crime or others, by learning to develop assertive behaviours (and) a healthy conduct".

This question raises the pertinent debate, which urgently needs to start, regarding the intervention with the perpetrator while the prison sentence is being served.

What should never happen to any domestic violence victim is to be contacted by the prison services and be asked if she is willing to receive in her home her aggressor, who is serving a prison sentence, either because a precarious release has been requested or because the granting of a conditional release is being analysed.

5.2. The attempted murder in 2017

5.2.1. The knowledge/acquisition of the information about the crime and the subsequent police action

The aggressor (**B**) did not carry out his intention to kill the victim (**A**) because, on the other bank of the river, a person passing by noticed what was happening and shouted that he was filming and that he would report **B** to the GNR. At that moment **B** let go of **A** and she managed to escape from the water. Later, this person posted on Facebook the images captured with his mobile phone.

It is worth highlighting the importance of this action by a citizen who, outraged by what he was seeing, acted in defence of **A** using the tool at his disposal - his mobile phone, which allowed him to record the crime, surprising **B** and interrupting his action.



It is also worth mentioning the proactive and positive action of the GNR, which, having knowledge of the incident through the images published on Facebook, tried to identify those involved, and went to their residence the day after the attempted murder, where they found **A** covered with signs of the aggressions.

The victim was advised to accept being sheltered for her own safety.

The EARHVD Team has already issued, in Case Report no. 3/2017-CS, the following recommendation:

"The judicial entities, in criminal proceedings, 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 accommodating her in a domestic violence shelter".

However, in this specific case, when the GNR officials contacted the victim at her residence, the perpetrator (**B**) went missing, and he was only arrested three days later - so the decision to offer the victim temporary shelter was justified by the need to ensure her safety against any act of **B**. The victim emphasized the support she had from the GNR at this time and that she felt a very positive evolution compared to the situations she had experienced in 2007 and 2015.

It was the victim who, on (...), having the information that **B** had been arrested, took the decision to leave the shelter and return to her home.

5.2.2. The information about the perpetrator conveyed by social reports

In the course of the present review, it was observed that the DGRSP issued, on **B**'s situation, the following reports:

- Final evaluation report of the execution of the temporary suspension of the process with injunctions or rules of conduct, dated of (...) 2016 (...);
- Social report to support the decision of the sanction, dated of (...) 2017, in the process that determined this review.



From the reading of the first of the reports and other information collected, it is concluded that there was no articulation between the DGRSP (which monitored the execution of the measure applied to the perpetrator), and the entity that supported the victim, in order to outline a joint and complementary strategy according to the knowledge that each one held about the perpetrator and the victim, aiming to obtain a more consistent result that would contribute to the prevention of recidivism.

The interventions took place in parallel, without any known point of contact, and therefore were not able to act on the family context in which the aggressions had occurred, becoming even more serious very soon afterwards.

The second refers , the *social report to support the decision of the sanction*, dated (...) 2017, while, on the one hand, it states that there is information that there had already been "marital conflicts" and notes that the 2015 investigation had been temporary suspended, it also states that "*in the social and residential environment, the defendant is known as a person with appropriate behaviour and without criminal problems, according to information provided by local criminal police agencies*".

The information provided on **B** is not consistent, and given the prior existence of two criminal investigations, one of which mentioned in the same report, it is surprising that the idea of a person "with good behaviour and no criminal problems" could have been conveyed.

If it is true that, along with the violence in intimate relationships, the perpetrator may maintain an apparently adjusted behaviour in his other aspects and social relationships, it is not correct, in the analysis and characterization of his behaviour and personality, to dissociate between two spheres presented as autonomous: his conduct in family and intimate relationships and his extra familial, so-called "social" conduct.

In order to be able to make well-founded reports and provide competent advice to the courts on this issue, it is essential that the professionals who provide them have a solid background in violence against women and domestic violence.

5.3. The victim as subject of the process

The victim is a subject of the criminal procedure. The assignment of the *status of victim* is not a mere formality. It is a moment in which the victim becomes aware of its rights and guarantees from the time of the complaint for an act punishable as a



domestic violence crime. These rights and guarantees are set out in the LVD, which today must be supplemented by the rules contained in the Status of Victim in Criminal Proceedings (EV-approved by Law no.130/2015 of 4th September), as well as in the Witness Protection Act (approved by Law no. 93/99 of 12th July and amendments of 2008 and 2010). Under the terms of the article 67, no. 1, item b) and number 3 of the Code of Criminal Procedure, victims of domestic violence are considered especially vulnerable victims.

The following are particularly relevant in this case: (a) the *right to information and communication*; (b) the *right to legal consultation and legal aid*.

- a. The victim (**A**) states that there should be information on the course of the proceedings, since in her case what she learned was "through the newspapers and on television", and she mentioned that, this last time, she left the shelter voluntarily because there she had the information that **B** had been arrested.

The victim must be informed about the "conditions [under which] she is entitled to notification of decisions rendered in the criminal proceedings"² and her right, if she so requests, to obtain information, namely about the "follow-up given to the complaint"³ and also about the procedural situation of the perpetrator (defendant)⁴, for which she can have the information about "the name of the officer in charge of the investigation" and have the "possibility of contacting him/her to obtain information about the status of the criminal proceedings"⁵.

The understanding about the information and of all communications of the acts in which the victim participates shall be ensured, through "simple and accessible language, taking into account [his/her] personal characteristics"⁶.

In this case, it is possible to observe that the victim had insufficient information and understanding about the development and outcome of the proceedings in which she participated. This necessarily has a negative effect on the victim's sense of security and confidence in police and judicial action.

² Article 11, no. 1, item l) EV.

³ Article 11, no. 6, item a) EV.

⁴ Article 11, no. 6, item b) EV.

⁵ Article 15, no. 4. LVD.

⁶ Article 12, no. 2. EV.



- b. The LVD and the EV ensure that the victim has access to legal consultation, advice and judicial support⁷. In the present case, **A** stated that the appointment with a lawyer, which she requested, "happened only 3 or 4 days before the trial".

For an effective legal support for victims, it is necessary that they are clearly informed of this right as soon as they are assigned the Status of Victim (EV) and that, if requested, the appointment of a lawyer is timely made, for the legal assistance to be an effective support for their intervention in the different acts and stages of the proceedings.

The assignment of the Status of Victim is an important moment in the context of the victim's first contact with the justice system, when the person shall be made aware of his or her rights, duties and the way the criminal proceedings will develop. Therefore, its assignment cannot consist in the mere delivery of a document that summarizes the rights and protection provided by law. The victim has the right to be given the necessary explanation in order to understand its content and scope, in what circumstances he or she can and should use such a document, and how to obtain further information he or she may need.

It is important to emphasize that the "model document proving the assignment of the status of victim [of domestic violence] referred to in nos.1 and 2 of article 14 of the Law no. 112/2009, of 16th September 2009, attached to the Ministerial Order no.229-A/2010, of 23rd April 2010, should be revised in light of the evolution of the rights of the victim resulting from the publication of the Status of Victim in Criminal Proceedings and the assignment to the victim of the status of especially vulnerable victim (article 67-A, no. 3 of the Code of Criminal Procedure).

5.4. The need to preserve private information

In the procedural documents of the enquiry into the facts for which **B** was convicted of the crime of attempted homicide, the location of the institution where **A** was sheltered was identified, as well as the identification of the professional who followed **A** during that period.

⁷ Articles 18 LVD and no.13 EV.



All entities involved in criminal investigation, in any capacity, should always preserve, for obvious security reasons, the confidentiality of the location of shelters for domestic violence victims, as well as any unnecessary information that may affect the work of the professional staff working there.

Domestic Homicide Review

06.

Conclusions



CHAPTER

06.

Conclusions

In conclusion:

- a. The victim (**A**) had a conjugal relationship marked by physical and psychological violence for more than 30 years, until, in April 2017, her then-husband (**B**) tried to kill her;
- b. During that period, there were two criminal investigations motivated by aggressions from **B** to **A**: one in 2007, archived because the victim had withdrawn her complaint; another in 2015, in which the facts were classified as a crime of domestic violence, temporarily suspended for a period of 18 months;
- c. **A** was sheltered in a temporary centre (the first time), in an emergency response (unspecified); then in a shelter for domestic violence victims (the second time) and again in a long-term shelter for domestic violence victims (the third time); the first two times she left to return to live with **B**;
- d. The victim benefited from follow-up by supporting centres, but only while those enquiries were pending, which did not prove sufficient to give her the capacity to break out from the violence cycle in which she was trapped. She returned to it after the attempted murder in 2017, attending mutual aid groups;
- e. In the second criminal investigation, in the year 2015, it was ordered the temporary suspension of proceedings without the perpetrator being removed from the common residence, despite the fact that the risk of revictimization was classified as high. During this period, **B** was followed by the DGRSP in the compliance with the injunctions and rules of conduct imposed on him and **A** was followed by an NGO, but these interventions took place in parallel, without any known point of contact, and therefore were not able to act on the family context in which the aggressions had occurred. The injunctions and rules of conduct applied to **B** did not prove effective from the preventive point of view because, the enquiry having been filed in (...), the attempted homicide occurred three months later (...);



- f. At this time, the aggressor (**B**) did not materialize his intention to kill the victim because, on the other bank of the river where the drowning attempt occurred, a person who was passing by realized what was happening, shouted that he was filming and that he would report it to the GNR, causing the perpetrator to let go of **A** and she managed to escape from the water. And it was through these images published on Facebook that the GNR became aware of the situation and took the initiative to open an investigation;
- g. The victim stated that she had insufficient information and understanding about the development and destination of the cases in which she participated. It should be noted that the Status of Victim (EV) grants the victim relevant rights regarding information and explanation about the progress of the case, as well as legal advice and judicial support. For an effective legal support for the victim, it is necessary that he/she is clearly informed of this right as soon as the Status of Victim is granted and that, if requested, the appointment of a legal counsellor be made in a swift manner so that the legal assistance can constitute effective support for their intervention in the different acts and phases of the process.
- h. The assignment of the Status of Victim should not be limited to the mere delivery of a document, but should be a moment of effective clarification of what this means. However, the "model document proving assignment of the status of victim referred to in numbers 1 and 2 of article 14 of the Law no.112/2009, of 16th September 16, annexed to the Ministerial Order no.229-A/2010, of 23rd April, should be revised in light of the evolution of their rights, resulting from the publication of the Status of Victim in criminal proceedings;
- i. In the investigation phase of the criminal procedure that originated this review, there are references to the location of the shelter where the victim was, as well as the name and telephone number of the professional of that institution - which should not happen.



Domestic Homicide Review

07.

Recommendations



CHAPTER

07.

Recommendations

In view of the above, the following recommendations are made:

1. Addressed to the Directorate-General for Reintegration and Prison Services (DGR-SP) and to the entities that promote supporting services integrated in the National Support Network for Domestic Violence Victims (RNAVVD):
 - When, in the course of the temporary suspension of criminal proceedings for a domestic violence crime, whether in the enquiry or in the pre-trial phase, the defendant is followed by the DGRSP and the victim is followed by a support service integrated in the RNAVVD, the need to promote articulation between both interventions should be considered with a view to implement a joint and complementary strategy, according to the knowledge that each of the entities has about the perpetrator and the victim.
2. Addressed to the Ministry of Internal Affairs, Ministry of Justice and Secretary of State for Citizenship and Equality:
 - In view of the publication, on the 4th September 2015, of the Status of Victim in Criminal Proceedings, approved by Law no.130/2015 of 4th September, and the classification of the victims of domestic violence as especially vulnerable (article 67-A, no.3 CPP), there is the need to review the "model document evidencing the assignment of the Status of Victim referred to in LVD article 14, numbers 1 and 2 of the, annexed to the Ministerial Order no. 229-A/2010, of 23rd April of the Presidency of the Council of Ministers and the Ministry of Internal Affairs and Justice
3. Addressed to the judicial authorities and criminal police bodies:
 - All entities intervening in the criminal procedure, in any capacity, should always preserve, for obvious security reasons, the secrecy of the location of the shelters for domestic violence victims, as well as any unnecessary information that may affect the work of the professionals working there.



(...), 22nd May 2019

Representative of the Ministry of Labour, Solidarity and Social Security

Dr.^a Aida Marques (Permanent Member)

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

Dr. José Manuel Palaio (Permanent Member)

Representative of the Ministry of Justice

Dr.^a Maria Cristina Mendonça (Permanent Member)

Representative of the Ministry of Health

Dr. Vasco Prazeres (Permanent Member)

Representative of the General Secretariat of the Ministry of Internal Affairs

Dr. António Castanho (Permanent Member)

Representative of the Republican National Guard (GNR)

1st Sergeant (...) (Non-Permanent Member)

Representative of the [IPSS]

(Eventual Member)

Approval of the Case Report No. 3/2018-AM

(Article 6, d), e) and f) of the 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 in the action of the police forces, the justice services and also in social solidarity intervention. It highlights the positive and negative aspects, the weaknesses, and the evolution of each entity action over the years that the violence in this conjugal relationship has lasted.



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 Caritas Diocesana of (...).

The Report should also be sent to the

- *Subcommittee for Equality and Non-Discrimination of the Portuguese Parliament*
- *Portuguese Judicial High Council*
- *Ombudsman's Office*
- *Deputy Secretary of Health*
- *Commission for Citizenship and Gender Equality*
- *National Directorate of the Public Security Police*
- *National Directorate of the Judicial Police*
- *National Institute of Social Security, IP*
- *Social Security Institutes of the Azores and Madeira*
- *National Institute of Legal Medicine and Forensic Sciences*
- *Directorate-General for Health*
- *Inspectorate- General for Internal Affairs*



- *Inspectorate-General for Health Activities*
- *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.

27th May 2019

Rui do Carmo
Coordinator of EARHVD