

Case: **4/2018-MM**



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

FINAL REPORT

Domestic Homicide Review

Report Author

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Permanent member of the EARHVD

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Domestic Homicide Review

01.

Case Identification



CHAPTER

01.

Case Identification

1.1 Judicial sentence and review decision

The current review document pertains to the facts subject of Process no. (...) of the Judicial Court of the Region of (...). In pursuant to, Article 10, number 4 of the Ministerial Order no. 280/2016 of the 26th October, the law regulating the procedure of the review of a homicide in a domestic violence context, the identification of the parties involved is the following: **A**- victim (mother of **B**); **B** – Perpetrator /Murderer (son of **A**).

In the process mentioned above, a final judgement was delivered by the Judicial Court of the Region of (...) on the 6th March 2018, **B** was sentenced to 25 (twenty-five) years of imprisonment as author of two crimes: aggravated rape, envisaged and sanctioned by article 210, number 1, and a crime of qualified homicide envisaged and sanctioned by articles 131 and 132, number 1 and 2, paragraph a) of the Penal Code, in which **A** was the victim.

The homicide being analysed in this report occurred on the 25th March 2017.

The Domestic Homicide Review Team (EARHVD) believes that this situation meets the requirements to be analysed by the Team, in light of article 4-A, number 1 of Law no. 112/2009 of 16th September (legal regime applicable to the prevention of domestic violence, protection and assistance to its victims - hereinafter LVD), as written in the Law no. 129/2015, of 3rd September, namely because it is a situation compatible with EARHVD Rules of Procedure, article 3, number 1 and 2, paragraph a), b) and e).



1.2 Characterisation of the parties involved

Characterisation of A - Victim (mother of B)

- Sex: female
- Date of birth: (...) (79 years old at the time of the occurrence)
- Marital status: widower
- Nationality: Portuguese
- Profession: housekeeper
- Employment Status: retired
- County of Residence: (...)

Characterisation of B - Aggressor (son of A)

- Sex: male
- Date of birth: (...) (46 years old at the time of the occurrence)
- Marital Status: single
- Nationality: Portuguese
- Profession: construction worker
- Employment Status: unemployed
- County of Residence: (...)



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02.

**Team Composition
and Information
Sources**



CHAPTER

02.

Team Composition and Information Sources

The review process began on the 13th June 2018, the preliminary report was completed on the 3rd July 2018 and the review meeting was held on the 18th September 2019, concluding the process.

The EARHVD Team included its permanent members.

In pursuant of Law no. 112/2009 (LVD), of 16th September, article 4 and 5, the review was based on the following information topics:

- a. Documents included in the legal proceedings;
- b. Information provided by the social services;
- c. Additional clarifications provided by Santa Casa da Misericórdia de Lisboa (SCML), by request of the EARHVD.

No relevant elements to the current review were identified in the information gathered from different sectors.



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03.

Collected Information



CHAPTER

03.

Collected Information

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

- In March 2015, **B** returned to the United Kingdom, where he had emigrated before;
- In March 2017, he returned to Portugal and stayed at his elderly mother **A**'s home from the 11th March.
- From 11th March to 25th March 2017, **B** and **A** lived with each other, and **B** slept on an improvised bed in the first-floor closed porch, but he did not have a key for the front door.
- During that period, **B** did not have a paid job and did not have any source of income; **A** was providing the basics for him, namely food, and also his alcohol and smoking habits;
- On the 25th March 2017, **B** managed to access his mother home, in an undetermined way, and during the time interval between 8.15 pm and 0.00 am he approached **A**, punched her repeatedly, stroke her several times with a kitchen knife and had vaginal intercourse with her, using physical force and under the threat of the knife;
- On this occasion, **B** grabbed **A**'s earrings and also taking her mobile phone;
- **B** held **A** by the neck with both hands, and squeezing hard he caused his mother's death by strangulation. The autopsy forensic report issued by the National Institute of Legal Medicine and Forensic Sciences (INMLCF) concludes that the cause of death was "*mechanic asphyxia by occlusion of the respiratory airways and/or constriction*";



- As a direct and necessary consequence of **B**'s conduct, and in addition to the pain inflicted to her, **A** suffered multiple traumatic lesions caused by hitting, penetration or piercing scattered through the whole body, general signs of asphyxia, traumatic lesion of the neck structure and several fractures in her back;
- His mother was the only relative with whom **B** kept any kind of relationship;
- Ever since he completed his 6th year at school, **B** started working in agriculture and construction jobs and, once an adult he migrated to the United Kingdom where he worked for 17 years in the hospitality sector. Absenteeism and job loss due to drug abuse, along with problems with the authorities highlighting issues with self-control and anger control even in personal relationships motivated his return to Portugal in 2014;
- By then he had already counted three criminal convictions in that country, in the form of penalties, for crimes of aggression, causing public disturbance whilst drunk and resisting custody;
- On his return to the country of origin, **B** reintegrated the original family environment and boarded a rehabilitation institution in order to address his drinking habits, between 29th October and 19th December 2014;
- He then returned to the United Kingdom in 2015, and again fell to the old habits of alcohol and cannabis use, losing his job and becoming homeless; he was deported in 2017 and arrived to Lisbon during the month of March, where, given the situation of homelessness he was directed to the social service of the SCML;
- On the 10th March 2017 he arrived to his region of origin, joining his mother's (**A**) household, where he got food and accommodation;
- **B** allegedly felt unsupported and overlooked, admitting to be frustrated by the living conditions and by the fact that his mother denied him the money he requested;
- He maintained his alcohol and drugs use, despite having been diagnosed with epilepsy a few years back and admitting not taking the medication he was prescribed.

3.2. Other information relevant for this review



3.2.1. Concerning the judicial intervention, during the investigation stage (source: file)

At the **Investigation Enquiry** carried out by the PJ to **A**'s daughter the day after the homicide, she mentions that in the period from July 2014 to March 2015 *"there were some tense moments between **A** and **B** caused by his drinking habits (...) Given those episodes, they managed him to be enrolled in the Care Home of (...) where he underwent an alcohol rehabilitation treatment for a month"*.

She also clarifies that *"in the beginning of March this year, her mother was contacted, either from the police or from the Santa Casa da Misericórdia de Lisboa, informing her son was in Lisbon, as he could not keep being a homeless person in London. After this episode, the witness received a phone call from her mother on the 11th March 2017 saying simply "he is coming home", referring to her brother **B**"*.

According to what her brother told her, he had arrived at the airport of (...) at about 10 -11 am, from where he hitchhiked to (...) and walked the rest of the journey from there to (...) because he had no money".

3.2.2. Concerning the social services (source: Institute of Social Security)

According to the information recorded in the Family Process of the Institute of Social Services (ISS), neither **A** or **B** were flagged or followed up by the respective domestic violence support team.

In this process there are two records:

- a. On 12th January 2015 – **B**, 43 years old, unemployed, alcohol dependent, lived alone with his 76-year-old mother (**A**).
- b. On 19th January 2015 – due to economic insufficiency, a stipend for medication and travel expenses was awarded to **B**.

In the same process there is a record that **B** was enrolled in the Care Home on 29th October 2014.



3.3. Clarifications by the SCML, by request of the EARHVD

There is information that **B** had the support of the SCML on his return to Portugal in March 2017, which has provided for his travel expenses to (...), therefore some clarifications have been requested regarding their contact with **B** and the support he had been given, and the replies are transcribed below:

Question: Was any memorandum received at the SCML about the repatriation of this citizen?

Answer: *The Emergency Unit (SCML) has not received any notification from the competent authorities, either British or Portuguese.*

Question: If such notification had been received, would it have been sent by the British authorities or by the Portuguese authorities? On what date has he landed at the airport in Lisbon? Who welcomed him on arrival to the airport coming from the United Kingdom?

Answer: *We do not have that information.*

Question: In what circumstances and on which date was he directed to the Emergency Unit of the SCML?

Answer: *Citizen **B** resorted to the support of the Emergency Unit on the 6th March 2017, escorted by the PSP. At the support desk, **B** stated that he had lived in the United Kingdom for the last 18 years, and that he was facing unemployment, and as such unable to cover the cost of housing, a situation that drove him to homelessness. He also mentioned that in the United Kingdom he had stayed in a shelter home for a month, and denied any issues with the authorities. He said his only family support was his mother who is based at (RA), the same place where **B** had lived before moving to the UK.*

Question: What kind of appointment did he have and what type of assessment was made at the Emergency Unit of SCML?

Answers: *At the time of the appointment with the Emergency Unit he had no financial resources or housing; however, he had support from relatives and a place to stay in (RA) where he had lived before moving to the United Kingdom, whilst he did not possess any connections or family support in the mainland.*



Questions: The decision of sending him to (RA) was made by request of the individual or was it suggested by SCML or any other entity?

Answer: *In absence of any other social or economic support, or housing, in the mainland, and because he had lived in (RA) before emigrating and had family there, **B** was given funds to purchase an airline ticket to (RA). Of note that **B** was given an emergency vacancy at the SCML Shelter Centre, where he stayed until the date of his journey.*

Question: Was his family in (RA), in particular the mother, asked about her son's return?

Answer: *No contact was made with the family of **B**.*



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04.

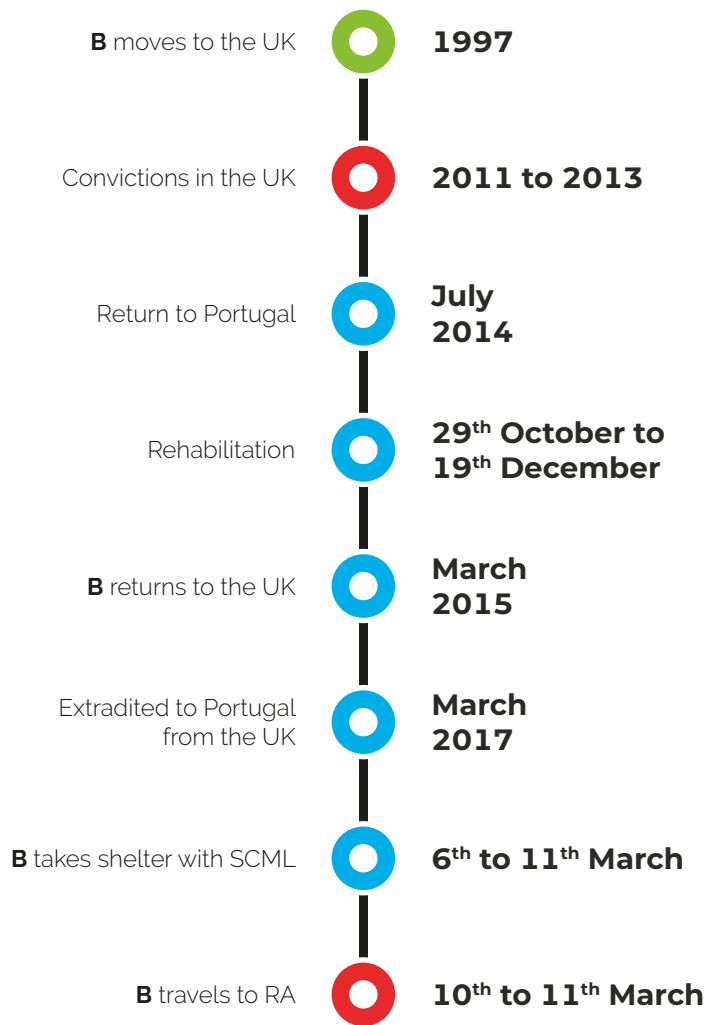
**Timeline of the case –
graphic representation**



CHAPTER

04.

Timeline of the case – graphic representation





B moves in with his mother (A)



11th March

B kills his mother



25th March

Legend



Beginning of the relationship



Background/risk factors



Opportunities for intervention



Homicide



Domestic Homicide Review

05.

Review



CHAPTER

05.

Review

5.1. Scope of the review

The objective of the review is to unveil the circumstances leading to the facts proven throughout this legal case, in order to draw conclusions and produce recommendations based on the journey of the parties involved and also on the action of the intervening entities.

Considering that **A** had only lived in the country for less than a year during the period spanning the almost 20 years preceding the homicide of **A** – from July 2014 to March 2015, and then since the beginning of March 2017 – this review will focus on the period after being extradited to Portugal from the UK.

5.2. Lack of preparation for the return of **B** to his community of origin

As mentioned before, **B** was extradited from the United Kingdom because he was unemployed and homeless, having receded to alcohol and cannabis abuse. He arrived in Lisbon at the beginning of the month in March 2017 without the knowledge of his family or of the Portuguese authorities.

B landed in Lisbon in a situation of homelessness and was brought to the Emergency Unit of the SCML by the PSP on 6th March 2017.

While attending the Emergency Social Services from this Institution, **B** stated he had lived in the United Kingdom for several years, and was currently unemployed, without economic resources to fund his own housing which led him to being homeless. He also stated he had no issues with the justice of that country and provided details about his personal and familial situation, in particular about his mother (**A**).

The SCML decided to provide financial support for a plane ticket from Lisbon to the



RA, without enquiring about the conditions he would find, more specifically without carrying out any investigation on the resources to receive **B** in the RA, by reaching out to **A** or to the ISS.

He was given accommodation in a SCML shelter home. The initial flight was booked for 7th March 2017, but **B** did not board that plane justifying that he had "run late and missed it" so he was re-booked to a flight 3 days later, and stayed at the same accommodation. The following day, a worker of the SCML accompanied him to the airport.

Had a contact with the local social services, and family, been done beforehand, it would have been possible to understand **B**'s personal journey and to anticipate the challenges of his reintegration into family life: he only kept in touch with his mother (**A**) and even with her the relationship was tense, due to **B**'s behaviours and substance abuse. Such anticipation would have made evident the need to prepare his return appropriately, which did not happen. As reported by his sister, on arrival to the destination, B "hitchhiked to (...), and walked the remaining way to (...) as he did not have money for the transport". If the ISS had been warned of **B**'s return, knowing about this family's issues and his behaviour during the previous visit, some family support measures, as well as health and social support measures could have been triggered.

As such coordination was not initiated, there was no chance of putting in place any measures in support of **A** welcoming her son (**B**) and actions could have been taken towards his behaviour to facilitate the necessary conditions for his social reintegration. The murder took place fifteen days after **B** arrived at the victim's home.

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06.

Conclusions



CHAPTER

06.

Conclusions

In light of the information collected and the facts review, the following conclusions were drawn:

1. Originally coming from the Autonomous Region of (...), **B** lived in the country for less than a year in the past two decades (from July 2014 to March 2015 and from March 2017 on), having resided in the United Kingdom, from where he was expelled for being unemployed and homeless while using alcohol and cannabis – these habits had led to rehabilitation treatment during the 2014/2015 period he was in Portugal.
2. **B** was extradited from the United Kingdom at the beginning of March 2017, arriving to Lisbon in a situation of homelessness; for this reason, he received support from the SCML, that offered him a place at a shelter home; based on his indication that he could have familial support in the (RA), he was also offered funds to get a flight ticket. He took the flight home on 10th March 2017.
3. SCML did not engage efforts to better understand **B**'s circumstances, or made any enquiries about the conditions that would await him at the destination, in particular did not establish contact with **A** or the ISS, organisation supporting this family when **B** visited the region in 2014/15.
4. Amongst the family, **B** only kept in touch with his mother (**A**), and headed there. His mother improvised a bed in the porch, without handing him the keys to the front door, because she did not trust her son given the behaviour, he had shown on previous occasion he had been living there.
5. Some previous contact with the family or with the local social services would have provided insight to **B**'s personal journey and the challenges presented by the family reunion, and thus the need to prepare his return appropriately to achieve the conditions required for reintegration, as well as safeguarding his mother's (**A**) safety.



6. On the 25th of March, fifteen days after arriving to his mother's home, he murdered her inside the house, amidst circumstances of great violence.



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07.

Recommendation



CHAPTER

07.

Recommendation

Considering the conclusions drawn by the file review, the EARHVD recommends:

All entities to which has been requested, or have the duty, to provide support for the displacement of a person in a vulnerability situation and/or social exclusion, to another geographical area, must, as a rule, proceed to inform and seek information from the social services and people named by the individual as potential contacts at the destination (relatives or non-relatives), so that the necessary measures are taken to facilitate the individual's shelter and integration.

Lisboa, 18th September 2019

Representative of the Ministry of Justice

Dr.^a Maria Cristina Mendonça (Permanent Member)

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 Health

Dr. Vasco Prazeres (Permanent Member)

Representative of the General Secretariat of the Ministry of Internal Affairs

Dr. António Castanho ((Rapporteur, Permanent Member)



Approval of the Case Report No. 4/2018-MM

(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 questioning and analysis focused on how it was managed
3. support in moving a homeless person to his region of origin, where after a fortnight, he fatally assaulted his own mother.
4. The review procedure defined in the EARHVD rules of procedure was respected.
5. The conclusions are based on the facts. The report is objective, reasoned and clearly written.
6. The recommendations presented are relevant and timely, in the light of the established facts and the identified shortcomings in the case.

For all the above reasons, I approve the Report.

The Report should be sent to all entities permanently represented in the EARHVD, as well as to the Ombudsman of Santa Casa da Misericórdia de Lisboa.

The Report should also be sent to:

- *Parliament Subcommittee for Equality and Non-Discrimination*
- *Portuguese Judicial High Council*
- *Ombudsman's Office*
- *Assistant Secretary and Health*
- *Commission for Citizenship and Gender Equality*
- *General Command of the National Republican Guard*



- *National Directorate of the Public Security Police*
- *National Directorate of the Judicial Police*
- *Social Security Institute, Public Institution*
- *Social Security Institutes of the Azores and Madeira*
- *National Institute of Legal Medicine and Forensic Sciences*
- *Directorate-General for Health*
- *Inspectorate-General for Health Activities*
- *Inspectorate-General for Internal Affairs*
- *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.

23rd September 2019

Rui do Carmo
Coordinator of EARHVD