

**THE EXPERIENCE OF THE
DOMESTIC HOMICIDE REVIEW TEAM (EARHVD)**



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

A ROADMAP THROUGH THE FIRST FOUR YEARS OF ACTIVITY

Report Author

Rui do Carmo

Retired Public Prosecutor, Coordinator of
The Domestic Homicide Review Team

Iceland
Liechtenstein
Norway grants

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

Buadir

www.earhvd.sg.mai.gov.pt

Contents

01. Introduction	05
02. The Domestic Homicide Review Team (EARHVD)	08
03. EARHVD Recommendations	14
1. Recommendations to health services	15
2. Recommendations on specific action by criminal law enforcement bodies	19
3. Recommendations concerning the justice sector	21
04. Recommendations on child protection	27
05. Recommendations on preventive action, quality, continuity and coordination of interventions	31
06. Recommendations regarding training needs	38
07. Lessons to be drawn from the cases already examined	42



*Reality is what doesn't vanish
when we stop believing it,
you said with open fingers
trying to clear that mist from your eyes*
(...)

Marília Garcia, 2019

"Differences", *Slow Motion*

*(...) in order for our work to acquire meaning,
we must be able to explain it with simplicity.*

Julia Shaw, 2016

"The Memory Illusion"



Key words

Retrospective Analysis/Review. Domestic Violence. Homicide.

Abstract

This article focuses on the creation, legal regulation and objectives of the activity of the The Domestic Homicide Review Team (EARHVD), as well as its recommendations to improve the domestic violence and violence against women combat, and the conclusions that can be drawn from the first four years of its work.



Domestic Homicide Review

01.

Introduction



CHAPTER

01.

Introduction

The review of homicides committed in a domestic violence context was established in Portugal in 2015, through Law no. 112/2015, of 3rd September, article 4-A added to Law no. 112/2019, of 16th September (legal regime applicable to the prevention of domestic violence, protection and assistance to its victims - hereinafter LVD). It was then established that "The Public Administration services intervening in the protection of domestic violence victims will implement a review of homicide situations that occurred in a domestic violence context and that have already been object of a final court decision or a decision to dismiss the case, aiming to draw conclusions that allow the implementation of new preventive methodologies regarding due procedures" (number 1), and, for that purpose, was created The Domestic Homicide Review Team (EARHVD).

The review procedure was regulated in 2016, by Ministerial Order no. 280/2016, of 26th October, by the ministers of the governmental areas most directly involved in this issue. The EARHVD started working on 1st January 2017.

Portugal then became the only country outside the Anglo-Saxon universe to implement a systematic review of homicide situations occurring in the domestic violence context. This review process was developed in some countries since the 1990s, in a very heterogeneous way but with common essential goals:

"Implementation of the first D/FVDR [*Domestic/Family Violence Death Review*] followed the "Charan Investigation"¹ conducted in San Francisco in 1990 in response to a particularly high-profile homicide-suicide. Since then, D/FVDRs have been instituted in several high-income countries and take various forms. D/FVDRs examine retrospectively the systemic and human factors related to the circumstances of deaths by domestic or family violence. They aim to reduce fatal and non-fatal forms of this violence. To achieve this, most review teams compile demographic and descriptive data on domestic or family

¹ This was a homicide/suicide analysis occurred on 15th January 1990. The investigation was carried out by the Commission for the Status of Women and by the San Francisco the County, USA. In this review were identified the shortcomings in the processing and monitoring of the situation, emphasizing, namely, the need to centralize information and improve coordination between services and to systematically collect information on domestic violence cases and due review.



violence deaths to identify contextual and human risk factors; the history of contacts with the system and possible moments of intervention; gaps and failures in service delivery; policy shortcomings; and opportunities and strategies for legislative and system reform. Outside of these core activities, D/FVDRs often differ in terms of their structure and rules of procedure, in the way cases are identified and the selection criteria, the extent of the review, and outputs." ²

In Portugal, the review is characterised as the reconstruction of the victim's and perpetrator's "perception of the systems of prevention, protection, support and punishment of domestic violence, their use, rejection or alienation of the available responses, as well as the specific responses provided by those systems". The review focuses on homicide situations in a domestic violence context, understood as "intentional homicide, attempted or consummated, directly or indirectly related to the sociological context and/or to the interpersonal relationships referred to in article 152 of the Penal Code"³ (which typifies the domestic violence crime).

Improving knowledge of situations in which violence against women, domestic violence and family violence has resulted in death, in order that, through a case review, conclusions are drawn to promote the implementation of measures that increase the quality of preventive action and reaction against these behaviours. This is the main goal of the review, which seeks to reconstitute the history of each case, the path of violence, the interaction of the parties involved with the services and entities of the various sectors, draw conclusions from the action taken and highlight factors and contexts that deserve special attention. As a result, the review presents recommendations aiming to increase pro-activity, accessibility, capacity-building and State action coordination from professionals and organised and various responses present in society.

² BUGEJA Lyndal, DAWSON, Myrna, MCLNTYRE, Sara-Jane and POON Julie (2017) "Domestic/Family Violence Death Reviews: An International Comparison", in Domestic Homicides and Death Reviews. An International Perspective, editor Myrna Dawson, Palgrave Macmillan, 2017, pp 4/5.

³ Ministerial Order no. 280/2016, of 26th October, article 2.



Domestic Homicide Review

02.

**The Domestic
Homicide Review
Team (EARHVD)**



CHAPTER

02.

The Domestic Homicide Review Team (EARHVD)

The EARHVD was created to fulfil this mission. The Team includes representatives of the governmental areas with more direct responsibility in the domestic violence and violence against women combat, of the police forces, and may include representatives of public entities in the area of health and social security and of non-governmental organisations, and is coordinated by a magistrate of the Public Prosecutor's Office⁴.

Its permanent members include representatives of the following entities:

- i** Public Prosecutor's Office;
- ii** Ministry of Justice;
- iii** Ministry of Health;
- iv** Ministry of Labour, Solidarity and Social Security;
- v** General Secretariat of the Ministry of Internal Affairs;
- vi** Public administration body responsible for citizenship and gender equality.

⁴ The coordinator is, by proposal of the Superior Council of the Public Prosecutor's Office, "appointed by order of the members of the Government responsible for the areas of internal administration, justice, citizenship and gender equality, social security and health" (article 5 of Ministerial Order no. 280/2016, of 26th October).



The representative of the police force with territorial jurisdiction in the area where the homicide or attempted homicide occurred is a non-permanent member. For each case, the respective police hierarchy [of the Public Security Police (PSP) or the Republican National Guard (GNR), as appropriate] appoints the professional best qualified to perform this job.

The representatives of the public entities in the area of health and social security, and of non-governmental organisations, which have intervened in the case, are eventual members.⁵ Their integration in the Team occurs “when it is deemed necessary”, which should mean that it will take place whenever one of these entities had had a significant intervention in the history of a case, contributing to a more informed, comprehensive and plural analysis. So far, representatives of a Local Network of Health Centres (ACES), a Private Social Solidarity Institution (IPSS) and the Institute of Social Security, Public Institute (ISS, IP) have intervened as eventual members in the already finished reports.

In February and March 2019, the EARHVD promoted (in Coimbra, Lisbon and Porto), meetings for discussion of its activity and objectives. The meetings had the participation of professionals and researchers from various scientific areas, having then been raised and discussed the relevance and adequacy of extending its composition to a representative of the National Commission for the Promotion of Rights and Protection of Children and Young People (CNPDPJ).⁶ This suggestion was received in the proposal to amend article 4-A of the LVD that the Government presented in Parliament in April 2020, still pending, in which this representation is added to the list of members of the EARHVD⁷.

Presently the representatives from CNPDPCJ or from any other Commission for the Protection of Children and Young People (CPCJ) may be called to join the Team as eventual members⁸. The representation of CNPDPCJ should, however, in our view, be compulsory whenever the facts have involved a child or young person, and the representative should be a non-permanent member. This implies, in addition to the aforementioned amendment to the article 4-A/2 of the LVD, also amend article 7/3 of the Ministerial Order no. 280/2016, which now only refers to the “representative of

5 Cf. Article 4-A of LVD and article 7 from Ministerial Order no. 280/2016, of 26th October.

6 Cf. *Activities Report 2019*, available @ <https://earhvd.sg.mai.gov.pt/Noticias/Pages/Relat%C3%B3rio-de-atividades-2019-.aspx> (access on 1st March 2021).

7 Available @ <http://app.parlamento.pt/webutils/docs/doc.pdf?path=6148523063446f764c324679595842774f6a63334e-7a637664326c756157357059326c6864476c3259584d7657456c574c33526c6548527663793977634777794f433159-535659755a47396a&fich=ppl28-XIV.doc&inline=true> (access on 1st March 2021).

8 Happening at this moment (April 2021) in two ongoing reports.



the police force territorially competent in the area where the fact occurred”, to include the representation of the CNPDPCJ. This should occur in cases where a person under 18 years of age, or young people under 25 years of age who is benefiting from a rights promotion and protection measure: (1) has been a victim; (2) is a child of the victim and/or the perpetrator; or (3) lives with one of them.

As already mentioned, the review focuses on the situations of homicide in a domestic violence context, understood as “intentional homicide, attempted or consummated, directly or indirectly related to the sociological context and/or to the interpersonal relationships referred to in article 152 of the Penal Code”. The EARHVD Rules of Procedure⁹ implemented this concept and defined the universe of specific situations covered by the review, with the following scope:

Homicides committed or attempted, with intent or negligence, including crimes aggravated by the result of death¹⁰, whenever the victim:

- a.** Is one of the persons referred to in article 152, number 1 of the Penal Code [spouse; ex-spouse; person of the other or same sex with whom the perpetrator maintains or has maintained a dating relationship or a relationship similar to that of spouses, even if not cohabiting; parent of a common descendant to the first degree; person who is particularly vulnerable, namely due to age, disability, illness, pregnancy or economic dependence, cohabiting with the perpetrator];
- b.** Cohabits with the accused;
- c.** Is a relative or relative of one of the persons referred to in article 152, no.1 of the Penal Code or maintains or has maintained a relationship of great proximity or mutual help;
- d.** He/she is economically dependent on the accused;
- e.** Is a descendant, ascendant, adopter or foster child of the defendant;

⁹ This document, as well as all the EARHVD documentation referred to in this text, is available @ www.earhvd.sg.mai.gov.pt

¹⁰ Cases in which death is attributed to the perpetrator by reason of negligence (cf. article 18 of the Penal Code, with this result being inseparable from the intentional crime that was committed. An example of this is the intentional crime provided for and punished under article 152/3, b) CP.



- f. Holds, or has held, positions within services, entities or organizations supporting victims of domestic violence, protection of children and young people, health, education or social intervention in these areas, and the crime was directly or indirectly motivated by the exercise of such positions.

The review procedure begins with the communication by the judicial authorities of the final decision to close the enquiry, the decision not to prosecute or the final decision, convicting or acquitting, after being declared *res judicata*, as is expressly stated in article 10/2 of the Ministerial Order no. 280/2016¹¹.

As already mentioned by the EARHVD in the activity reports for 2019 and 2020, there has been no systematic compliance with the provisions of this rule, which limits the knowledge of the cases handled by the justice system and, consequently, the scope of the observation and analysis of the performance of the various services and entities that act in the prevention, detection and combat of domestic violence and support to its victims. By the end of February 2021, the Team had received 19 communications from 9 of the 23 judicial districts which make up the Portuguese judicial organization, 5 of which originated from the Public Prosecutor's Office (MP) due to the subsequent death, by suicide, of the perpetrator of the crime, which led to the enquiry being closed.¹²

As a result of the review carried out, the Team has developed recommendations¹³ addressed to various sectors and entities, aimed at improving the prevention and combat on violence against women and domestic violence, protection and support to its victims.

The gaps detected and the recommendations formulated in the cases review have been widely disseminated and reflected upon in society, among researchers, decision-makers, organisations in the sector and professionals in various areas of knowledge. They have also been the subject of training actions aimed at the forensic professionals and the National Support for Domestic Violence Victims (RNAVVD), as well as an element of support and justification for measures and decisions taken to strengthen this combat. An example of which is, among others, the Resolution of the Council of Ministers no. 52/2019, of 28th February, which created a "multidisciplinary technical commission for the improvement of the prevention and combat of domestic violence" (CTM), whose

¹¹ Cf. EARHVD Rules of Procedures, available @ <https://earhvd.sg.mai.gov.pt/LegislacaoDocumentacao/Pages/ManualDeProcedimentos.aspx> (Access on 1st March 2021).

¹² Articles 127/1 and 128/1 of the Penal Code.

¹³ Article 4-A/6 of the LVD and article 6, paragraph e) of the Ministerial Order no. 280/2016, of 26th October.



final report¹⁴ was submitted to the Government on 28th June 2019 and upon which the Resolution of the Council of Ministers no. 139/2019 of 18th July 2019 was based, whose “measures to prevent and combat domestic violence” are still under development.

14 It can be read @ <https://www.portugal.gov.pt/pt/gc21/comunicacao/documento?i=relatorio-final-da-comissao-tecnica-multidisciplinar-para-a-melhoria-da-prevencao-e-combate-a-violencia-domestica> (Access on 1st March 2021).



Domestic Homicide Review

03.

EARHVD
Recommendations



CHAPTER

03.

EARHVD

Recommendations

The EARHVD shall address recommendations to public, private and social sector entities, and to professionals, with a view to implement new preventive methodologies, strength the quality of intervention and the effectiveness of the combat against domestic violence and violence against women, whenever the information collected, the analysis and the knowledge acquired allow for its safe formulation. Only in one of the 13 reports approved and published so far, has no recommendation have been made.

The recommendations already made concern: (1) health services activity; (2) specific action by criminal law enforcement bodies; (3) the action of the entities involved in the judicial process; (4) child protection; (5) preventive action and the quality, continuity and coordination of interventions; and (5) training needs.

1. Recommendations to health services

In the first report adopted by EARHVD (Case no. 1/2017-AC), dated October 2017, the following recommendations were made:

- a. *That health care providers must systematically screen for the presence of domestic violence and that in all screening processes, neutral questions are asked about the occurrence of violence within the family, in accordance with the technical reference "Interpersonal Violence - Approach, Diagnosis and Intervention in Health Services" of the Directorate-General for Health.*
- b. *That all health professionals document the statements of users about the violence to which they may be subjected and the occurrences they uncover in the exercise of their duties.*
- c. *That, whenever there is a well-founded suspicion or confirmation of domestic violence,*



health professionals provide information on resources to support the victim and that they take care of the necessary security measures, as well as report this situation to judicial entities, on the basis of the mentioned technical reference.¹⁵

The activity of health professionals and services is extremely important in detecting and documenting situations of risk and danger, manifestations of physical or psychological violence, as well as providing the first support and information to the victims.

In the specific case, the report states that “the information available in the health services is scarce” despite the fact that “there have been several documented contacts by health professionals (...) who would be in a privileged position to identify family dysfunctions”, promote protection measures and share information with other intervention entities. In other words, there was passivity in dealing with the manifestations of the conflict and in mobilising the appropriate resources to intervene in it.

In the report adopted in case no. 4/2017-VP, September 2018, the above recommendations were reaffirmed and broadened in the following terms:

Also recommends that all these situations should be referred to the EPVA-Adult Violence Prevention Team of the local health unit, which are well positioned to engage in a privileged dialogue with other entities within the National Support Network to Domestic Violence Victims and with the Judiciary Entities.

It emphasises that health services, in addition to clinical intervention, have the responsibility to “investigate the determinant factors of socio-family situations (in events of violence) and take initiatives to solve them”. In this intervention and in the dialogue with the judiciary system and with the national support network for domestic violence victims, the Adult Violence Prevention Team (EPVA), as well as the Support Unit for Children and Young People at Risk (NACJR) have a central role in the National Health Service (SNS).

In order to overcome some of these shortcomings under the National Programme for the Prevention of Violence in the Life Cycle the Directorate-General for Health (DGS) developed, in 2020, an important tool to increase screening, early detection, health care provision and prevention of re-victimisation - the Clinical Record of Violence in Adults (RCVA).

¹⁵ References according to the ENG version already published on the EARHVD website: <https://earhvd.sg.mai.gov.pt/RelatoriosRecomendacoes/Pages/default.aspx>



The recommendation formulated for case no. 1/2017-AC (transcribed above) states that all situations in which “there is a founded suspicion or confirmation of domestic violence” should be reported to judicial entities. This is due to the fact that the domestic violence crime (article 152 of the Criminal Code) is a crime of public nature, whose denunciation is always mandatory for the police entities, and also for the civil servant when they “become aware of it in the exercise of their duties and because of them” [article 242/1 of the Criminal Procedure Code (CPP)]. For this purpose, the civil servant concept covers, inter alia, “any person who, even if temporarily, in return for payment or free of charge, is called upon to perform or to participate in an activity involving the public administrative or judicial functions or, in the same circumstances, to perform or participate in activities in bodies governed by public law”. (cf. article 386 CP).¹⁶

The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) binds States to “take the necessary measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that a serious act of violence, covered by the scope of this Convention, has been committed and further serious acts of violence are to be expected.” (Article 28).

In fulfilling the duty to report, it is important to bear in mind that:

- 1.** There is only a duty to denounce when the civil servant has consistent and credible information that the did has been in fact committed. A rumour, a vague suspicion is not enough.
- 2.** The moment of filing a complaint/denunciation should be prepared by taking into account the need to ensure the protection of the victim and to seek his/her compliance.
- 3.** The decision to file a complaint/denounce may be preceded by a moment of information gathering that sufficiently substantiates its basis (particularly when

¹⁶ *The concept of a public utility body, contained in the final part of the current wording of article 386, no. 1, paragraph d) of the Penal Code, does not encompass Private Social Solidarity Institutions, whose status is now set out in Decree-Law no. 172-A/2014 of 14th November, as amended by Law no. 76/2015 of 28th July* - Supreme Court Decision no. 3/2020 of 13th February 2020.



there are serious doubts about the facts), of support and clarification for the victim and RNAVVD mobilisation.

The Inspectorate-General for Health Activities (IGAS) has paid particular attention to the reports of the Team and the recommendations addressed to the sector. Being of note the information contained in the 2020 Activity Report of the EARHVD, which is transcribed below:

- National Health Service (NHS) entities' surveys, with a view to prepare the Evaluation of the Implementation of Recommendations Approved by the EARHVD in hospitals and primary health care units, followed by audits on health care establishments;
- Published the IGAS Technical Guideline (OT) no. 2/2020, of 9th December. In this guideline is stated that it is the result of the EARHVD reports that "the health services where the victims go to receive clinical assistance rarely question them about the origin of the injuries or, when this happens, the appropriate record is not made" and that "in the face of domestic violence, the role of the health sector cannot be restricted to the mere symptomatic treatment and repair of physical and psychological injuries that result from this context". Consequently, *"under the terms of article 4, no. 1, paragraph m) of Decree-Law no. 33/2012, of 13th February, [the following] guideline was issued regarding the detection of users who are domestic violence victims, so that the services, establishments and organisms of the Ministry of Health or under its jurisdiction, including public corporate entities, comply with the recommendations issued by the EARHVD, by proceeding, in particular, as follows:*
 - a.** *Health care providers should systematically screen for domestic violence risk, ensuring that objective questions about the existence of violence within the family are asked at every screening process;*
 - b.** *The records should be carried out in accordance with all DGS technical references related to Interpersonal Violence Approach, Diagnosis and Intervention in Health Services, including the consultation of the Clinical Record of Violence in Adults - Practical Guide (September 2020), published by this entity;*
 - c.** *All health service professionals should document statements from service users about the violence they may be subjected to, and also any related accidents identified in the course of their work;*

Whenever there is a founded suspicion or confirmation of domestic violence, health



professionals should provide information on victim support resources (refer to the *Domestic Violence Resource Guide*¹⁷) and diligence for the necessary safety measures, as well as report the situations to the judicial entities.”

In the case report no. 7/2018-VP, February 2021, was highlighted the frequency of situations in which homicide in this context is immediately followed by suicide by the perpetrator. It is mentioned that in Portugal, following the data of international studies, about one third of the men who commit homicide in intimate relationships commit suicide afterwards (in the cases investigated by the Judiciary Police between 2014 and 2019, suicide occurred in 32% of them). Although the EARHVD has not made any recommendation on this matter, given the limited factual information that it was possible to obtain about the specific situation, it notes that “from a gender perspective, homicide-suicide has been understood as an extreme manifestation of hegemonic masculinity, as an extreme form of control, practiced (...) in situations where a woman inevitably breaks the relationship on her own initiative”, and underlines that “the recognition of the intention to commit suicide related to a conflict situation in intimate relationships requires mental health intervention, with a view to prevent the act and treat its causes, but also from the perspective that it can be an effective way to prevent (...) femicide”.

2. Recommendations on specific action by criminal law enforcement bodies

Once the police have received news about the crime, they will assess the risk for the victim (article 29/3 LVD), using the Domestic Violence Risk Assessment (RVD).

In the first EARHVD report (case no. 1/2017-AC), the following recommendations were made regarding risk assessment procedures:

- a. *The victim risk assessment (through the implementation of RVD-1L and RVD-2L¹⁸) must be implemented, as a rule, by specialized professionals, experienced in the field of domestic violence. Should this not be feasible in the specific case, it should be supervised by a specialized professional, within a period not exceeding 48 hours.*

¹⁷ Domestic Violence Resource Guide - <http://www.guiaderecursosvd.cig.gov.pt/#/>

¹⁸ The RVD 1L is implemented when the crime is reported, to define the risk level of further occurrence; the RVD 2L is used to reassess the risk at a later stage.



- b. The steps taken to implement the protection measures and the safety plan defined for the victim, as well as the incidents of their implementation, should be registered in a specific document, which will be attached to the criminal proceedings, so that it is possible to know and control their effective implementation.*

In this specific case review, the RVD application made by the criminal police body (that has specific teams with special training for dealing with these situations), was confirm- edly not implemented or supervised by professionals with this qualification, indicating, as stated in the report, "a deficient use of risk assessment instruments". Its result and the orientations stemming from the application of the form are relevant elements for the definition of a specific safety plan for the victim, and will also be relevant for the definition of the procedural status of those who are accused of the aggression, which reveals the importance of its good application.

There was also no documentation on victim protection measures implementation, which makes it impossible to monitor them. The importance of this monitoring and control is now clearly expressed in the Generic Directives and Instructions for Implementation of the Criminal Policy Law for the Biennium 2020/2022, of the Public Prosecutor's Office (Directive no. 1/2021, of 4th January), which determines, in what concerns protection measures and victim support, that an "effective supervision of the implementation of the security plan" (III, 3.vii) resulting from the risk assessment level.

In the case report no. 1/2019-JP, April 2021, the EARHVD looked particularly closely at the RVD application by a criminal police body, and found that, in this case, it had been inconsistent, poorly considered, and indicative of a purely bureaucratic completion of risk assessment forms, and concluded "that the assessment has not fulfilled its purpose of accurately identifying the factors and the level of risk for the victim", which has "an influence on the adequacy, quality and implementation of the established protection measures".

It is stated that «on 28th June 2019 [the] Multidisciplinary Technical Commission for the Improvement of Prevention and Combating of Domestic Violence (CTM) considered "necessary to open reflection on the possible need to review the current instrument for the risk assessment and reassessment of re-victimisation, evaluating the experi- ence of its application, taking into account the legal changes that have supervened since its creation"»; and that «[the] Council of Ministers Resolution no. 139/2019, of 18th July 2019 (Official Journal, I Series, 19th August 2019), identified as one of the priority actions, based on the proposals of the CTM, "the review of the model of assessment and management of the victim risk level", that shall include "indicators concerning chil-



dren and young people, and other victims in situations of greater vulnerability". And this case review reinforces the urgency of this work. According to the EARHVD report, this amendment is necessary due to: (1) the great importance of risk assessment and risk management in a criminal phenomenon that is often not occasional and whose behaviour often increases in frequency, intensity and dangerousness; (2) the time already elapsed since RVD-1L and 2L (2014); (3) the need to evaluate the experience of its application; (4) the enlargement of its users; e (5) developments in knowledge and legislation.

Therefore, has been formulated the following recommendation to the Government:

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

New recommendation was specifically addressed to the criminal police bodies in the case report no. 4/2017-VP:

Any incident or intervention related to the possible existence of violence in interpersonal relationships should be recorded, even if it does not give rise to any legal proceedings.

The reasoning underlines that "[the] non-registration of occurrences and facts that may indicate or reveal interpersonal violence in its multiple forms, implies that any episode identified at any given moment always seems to constitute a "first time" or an isolated, fortuitous act, the gravity and extent of the violence being unknown or concealed. The inexistence or insufficiency of such records, besides having a negative influence on the assessment of the severity, the needs and the type of intervention on each of those occasions, also means the loss of an element of assessment that, a posteriori, may prove crucial in order to assess the outlines and the severity of the aggressive behaviour in the criminal scope".

3. Recommendations concerning the justice sector

In the case report no. 2/2017-JP, in January 2018 - homicide that occurred in the course of an enquiry investigating a domestic violence complaint that the victim had filed with the Public Prosecutor's Office (MP), which fully assumed the investigation without the



collaboration of any other entity, relying solely on its support services - the EARHVD found that: The victim was not attended to by someone prepared to do so; she was not assigned the status of victim or informed about the support she could benefit from; no risk assessment was carried out; no victim protection measure was initiated; and no steps were taken to consider the need to apply a coercive measure towards the aggressor.

Given the lack of action by (the local) Public Prosecutor's Office in this case, aware of the particular need for intervention in this area and of the inexistence of a definition of good practice that would guide investigation and victim protection, the EARHVD addressed the following recommendation to the Public Prosecutor General (PGR):

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

This recommendation was accepted and, by Order of the Head of Public Prosecutor General, issued on the 13th March 2018, considering that "various deficiencies and difficulties [in the performance of the Public Prosecutor's Office] continue to be noted, as evidenced by studies and reports, among others the one recently issued by the EARHVD" - determined the "establishment of a Working Group to define a strategy of the Public Prosecutor's Office against domestic violence, including the adoption of good practices and standardisation of procedures in the criminal and family and children's jurisdictions".

Subsequently in case no. 1/2018-AC, approved in December 2018, EARHVD further recommended that:

The "strategy of the Public Prosecutor's Office against domestic violence, including the adoption of good practices and standardization of procedures in the criminal and family and children's jurisdictions", to be drawn up in compliance with the order of the Head of Public Prosecutor General dated from 23rd March 2018. Should take into particular consideration the effective direction and monitoring of the investigation proceedings conducted by the criminal police bodies, as well as the performance of the Public Prosecutor's Office during periods of judicial holidays.



The MP's hierarchical document on domestic violence was published in the year 2019 and constitutes Directive no. 5/2019 PGR¹⁹.

The case studies carried out by the EARHVD addressed various aspects of the work of the judicial authorities, criminal police bodies and entities that assist them in the course of criminal proceedings.

In the case report no. 1/2017-AC, the following recommendation was addressed to the judiciary authorities and criminal police bodies:

In the enquiry, the hearing of the victim and the perpetrator should, by rule, take place on different days so as to better ensure the protection of the victim.

The EARHVD underlined that summoning the victim and the perpetrator to be heard in the same place and at practically the same time, jeopardizes the safety of the victim. If it is necessary the presence of both in the same procedure (and it can be necessary) it must be ensured, when it is decided to hold it, from the moment of the summons, the implementation of effective measures to ensure the safety of the victim, as it is known that this is one of the moments in which the risk for the victim increases.

The application of the criminal procedural institute of temporary suspension of proceedings in domestic violence situations is very significant, having been applied, in 2020, to 28.40% of the enquiries in which sufficient evidence of criminal responsibility was obtained. The adequate definition of the injunctions and rules of conduct that the accused will have to comply with and their effective enforcement are essential for the measure to meet the objectives of criminal prevention and social reintegration.

In the report approved in the case no. 3/2018-AM, in May 2019, EARHVD made the following recommendation on this topic:

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 accompanied by the DGRSP and the victim is accompanied by a RNAVVD service, the need to promote articulation between both interventions should be considered, with a view to implement a

¹⁹ https://www.ministeriopublico.pt/sites/default/files/documentos/pdf/diretiva_num_5_2019.pdf (Access on 2nd March 2021).



joint and complementary strategy, according to the knowledge that each of the entities has about the perpetrator and the victim.

In the specific case, the attempted murder that determined the review occurred only three months after the end of the temporary suspension of the proceedings for a domestic violence crime in which the perpetrator and the victim monitoring, who continued to cohabit, "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 position of the victim is decisive in the application of a temporary suspension in proceedings for domestic violence crimes, which depends on the victim "free and informed consent"²⁰. This must not be disregarded by the definition, implementation and monitoring of the accused conduct plan. In an integrated approach it must be provided permanent follow up to the victim, the victim must be consulted, and her interests must be preserved. This regime is, in the words of Cláudia Cruz SANTOS, "irrefutable proof" that "[a] domestic violence is a formally public crime that has an essentially private dimension: although a complaint is not necessary for the initiation of criminal proceedings, that necessity does not arise from the prevalence of the protection of the community over the individual interest of the victim in the existence or non-existence of a punitive response, but is based on the protection of that individual interest against forms of coercion"²¹.

In the case report no. 5/2018-AM it was found that the perpetrator was serving a prison sentence, having been in prison for more than three years. DRGRSP, in the social report establishing the sanction, proposed that he should "integrate personal and social skills training programmes with a view to reflect upon aspects related to emotional self-determination and personal freedom in the context of conjugality to be fully aware of the legal goods at stake". It was registered in his Individual Re-adaptation Plan (PIR) the attendance of the VIDA Programme (application of the programme for domestic violence perpetrators - PAVD - in the prison context), as well as training of personal and emotional skills. However, this had not yet started.

The adoption of preventive and treatment programmes is provided for in article 16 of the Istanbul Convention, with article 38 of the LVD binding the State to provide psychological and psychiatric support and to implement programmes for perpetrators. The

²⁰ Article 281/5. CPP.

²¹ Portuguese Criminal Procedural Law in Change. Ruptures and Continuities (2020), Almedina, page 122.



published data on the attendance of the programme for domestic violence perpetrators in prisons shows that in 2020 the programme covered only 28 of the 1121 individuals who were in prison for that reason²². As EARHVD referred, the law that established the objectives, priorities and guidelines of criminal policy then in force, as well as the one for the biennium 2020-2022 (Law no. 55/2020, of 27th August), «DGRSP is responsible for developing specific programmes for the prevention of domestic violence in prisons, “so that their attendance can be linked to the serving of the prison sentence”».

Therefore, in October 2020, the following recommendation was addressed to DGRSP:

Given the small number of people integrated in the VIDA programme, a programme for domestic violence offenders in prison, it is urgent to promote greater compliance to the programme and the capacity to implement it, so that the sentence may ensure not only the protection of legal goods and social defence, but also the purpose of “reintegrate the perpetrator into society, preparing him/her to lead his or her life in a socially responsible manner” (article 2/1 CEPMPL; article 40/1 of the Penal Code).

In the case report no. 3/2017-CS, in April 2018, EARHVD recommended that:

In criminal proceedings, the judicial entities should always consider prioritising the removal of the aggressor from the residence where the crime has been committed or where the victim lives (with the possible use of remote-control technical means) rather than the removal of the victim from her residence and placement in temporary shelter residential units (domestic violence shelters).

As one of the report cases' conclusions states, “[the] The removal of the victims from their own homes, to be placed in a shelter for people in a situation of social emergency, allowing the perpetrator to remain in their house, sends the wrong signal, both in what concerns the protection and defence of the rights of the victims and in what concerns the restraint of the perpetrator”. Such removal may, however, occur at the victim’s request, for reasons of security, or until sufficient evidence of the crime has been gathered to allow the application to the accused of the coercive measure of “not remaining in the residence where the crime was committed or where the victim lives”²³.

²² <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBQAAAB%2bLCAAAAAABAAzND-Q2NwIAkIMJbAUAAAA%3d> (Access on 10th March 2021).

²³ Articles no. 31/1., b) LVD and 200/1., a) CPP.



The Procedural Manual for Criminal Police Bodies within 72 hours following a maltreatment report in a domestic violence context²⁴, published in May 2020 (whose importance for the clarification of complaints, the acquisition and preservation of evidence and for the protection and support of victims, was twice affirmed in recommendations by the Team – cases no. 2/2018-JP and 6/2018-MM), took this line of thought, affirming the subsidiarity of victim referral to emergency sheltering²⁵.

The Manual states that "under no circumstances should any information be included in the file that makes it possible to identify the location where the victim is", in accordance with the recommendation contained in the EARHVD report case no. 3/2018-AM, because at the investigation stage of the criminal proceedings references to the location of the shelter where the victim had been, as well as the name and mobile contact number of a professional from the institution, were found, and remained in the case file:

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.

Directive no. 5/2019 PGR, in chapter V, has determined that "the Public Prosecutor, regardless of his jurisdiction, shall provide for the full confidentiality of the data concerning the location of the shelter home where the domestic violence victim is sheltered, ensuring the elimination of such mention in any file or process under their titularity or, in cases under the Judge's titularity, requesting or promoting such elimination, which will cover the Court case management operating system."

²⁴ https://www.cig.gov.pt/wp-content/uploads/2020/06/172-20_MANUAL_ATUACAO_FUNCIONAL_Final.pdf

²⁵ Point 6. *Restraint of the perpetrator/ Removal of the victim from their home.*



Domestic Homicide Review

04.

**Recommendations on
child protection**



CHAPTER

04.

Recommendations on child protection

The involvement of children in domestic violence situations is clearly expressed in the known statistical data. According to the 2019 annual report by the General Secretariat of the Ministry of Internal Affairs²⁶, 31% of the occurrences of domestic violence registered by the police forces were witnessed by children; and the Annual Report of the Commissions for the Protection of Children and Young People of the same year shows that the "danger by domestic violence category " represented 22.14% of the identified danger situations²⁷.

In the case report no. 1/2018-AC, the EARHVD found a clear oversight regarding the protection of the daughter of the homicide victim, stating:

«The victim (**A**) had a daughter, 7 years old at the time of the facts. This child is mentioned three times by **A**: when she filed the initial complaint and stated that she feared that **B** (the perpetrator) might "do something to her daughter to get her attention"; in the July complaint, where she reported having been harassed by **B** when she was accompanied by her daughter; and when she filed a new complaint in August and described events that occurred in the presence of the child. The child was confronted with **B** when he was stalking and threatening her mother and when he was waiting for her at the school she was attending, with whom he had conversations of unknown content at a time when violence and controlling behaviour had already reached a high level.

It was not taken into account that the child was in a dangerous situation, under the terms of article 3, no. 1, paragraph f) of the Law of Protection of Children and Young

²⁶ Domestic Violence – 2019. Annual Monitoring Report, October 2020. Available @ https://www.sg.mai.gov.pt/Documents/vd/RelVD_2019.pdf (Access on 8th March 2020).

²⁷ Available @ <https://www.cnpdpcj.gov.pt/documents/10182/16406/Relat%C3%B3rio+Anual+de+avalia%C3%A7%C3%A3o+da+atividade+das+CPCJ+do+ano+de+2019/e168c7fb-ddc8-4524-ba20-9511d8a5ae27> (Access on 8th March 2020).



People in Danger. PSP, and subsequently the Public Prosecutor's Office, should have communicated it to the CPCJ of the area of residence, in compliance with article 64, no.1 of the same law: "Police entities and judicial authorities shall communicate to the protection commissions the situations of children and young people in danger of which they become aware in the exercise of their duties."

Children are often threatened, assaulted and even killed in contexts such as the one described above, which may be used as a way to threaten and control the victim. If there are children, they will be in danger, even if they are not present in the episodes of explicit violence, and any security and intervention planning should contemplate them.

In the specific case, the child remained unprotected and was never heard. The child was not supported, not included in a safety plan and her suffering was neglected. The child was one of the means for **B** to control **A** and cause her fear. The child went through the conflict involving the mother. From what we could gather, the child never had any support from the entities that came into contact with the conflict between **A** and **B**. In fact, her suffering was ignored.

As a result, was formulated the following recommendation addressed to the Public Prosecutor's Office and the criminal police bodies:

In all domestic violence and violence against women episodes it should be assessed whether there are children/young people directly or indirectly involved or affected, an assessment should be implemented regarding their risk and the appropriate safety measures adopted, taking into account their specific needs. It should also be communicated to the Commission for the Protection of Children and Young People or legal proceedings should be initiated, with a view to protect them and promote their rights.

Chapter IX of Directive no. 5/2019 PGR is dedicated to the "articulation between the areas of criminal and family and children", and the obligations of communication and articulation are now foreseen therein.

Subsequently, in the case report no. 6/2018-MM, was analysed the situation of a child who witnessed, over several years, aggressions of which his mother and particularly his maternal grandmother, with whom he lived, were victims (including those that ended in the homicide of the latter). This child saw objects and equipment that he used destroyed and was the target of serious threats by the grandmother's partner. Such behaviours constituted successive, intense and serious psychological ill-treatment, the criminal relevance of which, in this specific case, was never considered despite the fact that



it could constitute the practice of domestic violence crime, under the terms of article 152, no. 1 paragraph d) and no. 2 of the Penal Code (CP).

Based on this case review and because it was found not to be an isolated case, the EARHVD formulated the following recommendation, in December 2020, addressed to the Parliament and the Government:

In judicial practice, when ill-treatment is committed in the presence of a minor, particularly in the situations described in article 152, no. 1, paragraphs a), b) and c) of the Penal Code, the understanding prevails that only the aggravating factor provided for in no. 2, a) of the same article is applicable. It is often overlooked that this conduct, practiced in the presence of the child, may constitute a psychological abuse of which the child is a victim and, therefore, constitute an autonomous crime of domestic violence. Therefore, it is recommended that the need and opportunity to clarify the text of article 152 of the Criminal Code, so that it expressly states that a minor who is forced to witness abuse committed against one of the persons referred to in no. 1 is himself/herself a victim of the crime of domestic violence.

Domestic Homicide Review

05.

**Recommendations on
preventive action,
quality, continuity
and coordination
of interventions**



CHAPTER

05.

Recommendations on preventive action, quality, continuity and coordination of interventions

Maria Fernanda Palma wrote that the criminal law intervention that is required in domestic violence cases is a social protection intervention, that it is not traditionally the role of criminal justice to decide and classify facts and determine sentences, but rather a role of other subsystems; for the author "it is the needs of the social system that require the criminal court, to the Public Prosecutor Office Magistrates and to the police to provide a different kind of social intervention [a "jus-social response"], since the problem has a mixed nature, involving social support and communication of State authority".²⁸

Domestic violence is a criminal problem that cannot be dissociated from other nuclear aspects of the social and family life of those involved in it or affected by it, which cannot fail to be addressed and resolved at the same time as criminal intervention, and which strongly influences it. This multifunctional intervention should be triggered by the Public Prosecutor's Office as soon as the facts are reported, because it is in a privileged position to do so and because it is the action that responds to the plurality of inseparable responsibilities assigned to it.

²⁸ PALMA, Maria Fernanda (2019) "The problem of the system and the system of the problem in domestic violence", 2019, in *Crime Anatomy* no. 9, pg. 56.



Based on these premises and in light of the review of the specific case, in which its relevance proved to be obvious, in the case report no. 6/2018-MM, the EARHVD formulated the following recommendation addressed to the PGR:

The relevance of assigning to Public Prosecutors who perform the actual penal proceedings – and considering the social protection aspect this entails within the scope of domestic violence – the responsibility to promote the necessary efforts, from the beginning of the enquiry, to foster the communication, collaboration and coordination of all the stakeholders for each particular case. The objective is to offer help and protection to the victim, reorganise the family, to protect children and young people or vulnerable adults, and provide treatment for the aggressor, ensuring a continued, planned and coherent course of action.

This recommendation was reflected in the generic directives and instructions for the implementation of the criminal policy law for the biennium 2020/2022, issued by the Head of the Public Prosecutor Office.²⁹

Communicating and sharing information, intervention coordination and the better use of existing resources are attributes that must be developed by the services and entities working in this area.

In the case report no. 3/2017-CS abundant information on the existence of a violent environment in the household during the ten years preceding an attempted homicide was obtained; several entities intervened throughout that time, but whose action was characterised:

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

²⁹ Cf. I, c), 1.iii) Directive no.1/2021 PGR.



The EARHVD then made the following recommendation:

The services/entities that intervene or have knowledge of a situation of violence in a family context should seek to obtain information about other entities that also intervene in it and refer it to those that should intervene in the case. The services/entities intervening in the same situation of violence within a family context should organize the transmission and sharing of relevant information among themselves, establishing the coordination of their actions, with a view to a more informed, coherent, articulated and effective action, without dispersion of resources - namely from the areas of education, justice, social security, health, internal administration, as well as those which integrate the national support network for domestic violence victims.

The domestic violence Status of Victim guarantees a set of rights and entitlements that are currently dispersed in three fundamental diplomas: the LVD, the Law on Witness Protection³⁰ and the Status of Victim in Criminal Proceedings^{31,32}. Therefore, the model document annexed to Ministerial Order no. 229-A/2009, of 16th January is outdated and EARHVD formulated, in case no.2/2018-AM, the following recommendation:

In view of the publication, on 4th September 2015, of the Status of Victim in Criminal Proceedings, approved by Law no. 130/2015 of 4th September, and the classification of domestic violence victims as especially vulnerable victims (art. 67-A, no. 3 CPP), should be considered the need to review the "model document evidencing the attribution of the victim status referred to in nos. 1 and 2 of article 14 of Law no. 112/2009 of 16th September", annexed to Ministerial Order no. 229-A/2010, of 23rd April, of the Presidency of the Council of Ministers and the Ministers of Internal Affairs and Justice.

Subsequently, the final report of the CTM of June 2019 also proposed its revision, in the following terms:

«CTM considers it urgent that the model document proving the attribution of the EV provided for in Ministerial Order no. 229-A/2010, of 23rd April, be changed in accordance with the formal establishment, in 2015, of the victim as a procedural subject and the publication of the EV in criminal proceedings, with victims of

³⁰ Law 93/99, of 12th July, amended by Law 29/2008, of 1st July and Law 42/2010, of 1st July.

³¹ Approved by Law 130/2015, of 4th September.

³² Cf. CARMO, Rui do (2018) "Domestic Violence: Overview of the Legal Regime", in Domestic and Gender Violence. A multidisciplinary approach, coord. DIAS, Isabel, Pactor, pp 29-62.



the crime of domestic violence having been qualified as “especially vulnerable victims” [Article 1, paragraph j) and Article 67-A, number 4, both of the CPP]. The evolution of the EV of this crime, which caused the document mentioned above to be outdated, led to the delivery, together with this one, of another document concerning the 2015 status, partly coinciding with the first one. This has proven not adequate to give the victim an effective clarification regarding her rights and obligations.

This situation must be overcome by building a new document which lists the rights and obligations inherent to the current EV of domestic violence (...), with a communicational paradigm of effective information provision, which is clear, understandable and provides practical instructions essential to its implementation.

It is also proposed that, in order to give it greater dignity and ease of use, the victim will be given a personalised document/card that identifies her/him as a victim of domestic violence at the different services and entities, containing a summary of her/his rights and duties, as well as practical instructions for its use».

On 18th August 2019, in the Resolution of the Council of Ministers no. 139/2019, it was determined to revise the model of victim status contained in that Ministerial Order.

In the EARHVD reports the crucial importance of prevention, awareness-raising to combat violence against women and domestic violence is emphasised, along with early intervention and follow-up of reported situations.

Therefore, in the case report no. 2/2018-JP, the following recommendation was addressed to the RNAVVD support centres and to the ISS, I.P.:

The EARHVD recommends the support centres from RNAVVD and ISS, I.P. to promote the continued monitoring of victims who are identified in a domestic violence context, regardless of whether they have filed a criminal complaint and/or live with the perpetrator, by checking the continuity (or lack of) of the aggression and the need for protection, support and assistance.

In this specific situation, it was identified the lack of continuous follow-up by the RNAVVD services, whose “intervention was limited to treating acute situations, without promoting the continuity of the follow-up provided [to the victim], making the whole domestic violence context dependent on the resilience of the victim herself, which may have constituted missed opportunities to interrupt the violence cycle”.



Subsequently, in the case report no. 5/2018-AM, the EARHVD again stressed the importance of preventive action, addressing the following recommendation to RNAVVD:

As there is an urgent need for the expansion, promotion and dissemination in the community of forms of support and early intervention, which do not depend on the verification of the preconditions for criminal proceedings, promote equality and prevent the conflict or its escalation. It is essential that the Guide of Minimum Requirements for Primary Prevention of Violence against Women and Domestic Violence Programmes and Projects, recently published by the CIG, provides leverage for the development of an integrated prevention action by all RNAVVD services/entities, encouraging the implementation and commitment to specific projects in the community, and that people are encouraged to get involved and to which they have easy access.

The asymmetries and shortcomings seen regarding the distribution of resources and responses in certain geographical areas are addressed in case report no. 2/2017-JP, in the following recommendation:

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

In this case report it is emphasized that the domestic violence was known to people in the community with close relations to the victim and the perpetrator, but the behaviour of the latter was never reported to any entity that could intervene to stop it and to support the victim. Community solidarity and support in this combat is still insufficient and requires persistent work to clarify the situation and combat passivity, to promote equality and the value of human dignity.

Also, in the field of preventive action, the EARHVD formulated, in September 2019, in case report no. 4/2018-MM, the following recommendation:

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 (relatives or non-relatives) named by the individual as poten-



tial contacts at the destination, so that the necessary measures are taken to facilitate the individual's shelter and integration.



Domestic Homicide Review

06.

**Recommendations
regarding
training needs**



CHAPTER

06.

Recommendations regarding training needs

EARHVD presented recommendations regarding the reinforcement and increase of training, in view of the need to promote a more informed practice, which benefits from the increase and updating of knowledge and from reflection on the activity developed, promoting interaction and complementarity of knowledge and action of entities and professionals in different areas.

In the case report no. 4/2017-VP, the concern focused on health and the importance of improving "the understanding, the capacity for detection and the terms under which intervention in situations of violence in intimate relationships should take place", and the following recommendation was formulated:

Training of health professionals on violence in intimate relationships, violence against women and domestic violence, including its detection and subsequent intervention should be reinforced.

In case report no. 2/2018-AC, attention was drawn to the need to improve the knowledge and skills of the members of the police forces working in the first line, which resulted from the observation, in the reviewed cases, of the evident lack of training of the professionals involved and the negative repercussions that this has on the capacity to understand the facts, on immediate action, on the preservation and acquisition of evidence and on the protection of the victims.

Therefore, in case report no. 4/2017-VP, was presented the following recommendation:

Training reinforcement regarding violence in intimate relationships, violence against women and domestic violence, in order to provide a greater number of first line pro-



professionals in the police forces with knowledge that will improve their understanding of the characteristics and dynamics of these behaviours. In addition, training will increase the quality of their action, particularly in attending and supporting the Victim, collecting evidences, and also the quality of risk assessment and due definition and implementation of the Victim safety plan.

And in case report no. 2/2018-AC, EARHVD recommended to CIG:

The urgent implementation, with regard to police forces and magistrates, of the specific objective "4.1. Initial and ongoing training of professionals for intervention in Violence against Women and Domestic Violence" of the Action Plan for Preventing and Combating Violence against Women and Domestic Violence 2018-2021 (PAVMVD).

It was outlined in the final report of the CTM and determined by the Resolution of the Council of Ministers no. 139/2019, the implementation of a joint training plan on violence against women and domestic violence. EARHVD recommended in the case report no. 8/2018-AC, approved in May 2020, that such a plan:

(...) should ensure the preparation of professionals from the various sectors to evaluate, recognise and combat psychological and economic violence, which is not always given the same relevance as physical and sexual violence, including behaviours that may involve coercive control strategies.

This type of behaviour - coercive control - was well illustrated in the situation analysed there, in which the fearful environment experienced by the victim ["described by many victims and also by some investigators as "walking on eggshells"] made her "do everything to avoid disturbing or challenging the aggressor", assuming apparently contradictory attitudes that were nothing more than "attempts to manage the situation of danger in which she found herself". And in which the perpetrator's actions were characterised by: "intimidation (including threats and vigilance), isolation (including from family, friends and the world outside the home) and control (including of family resources and "micro-management" of daily life) (Evan Stark, 2007)".

The Annual Training Plan for Violence Against Women and Domestic Violence was published in 2020 and its implementation was announced for the year 2021, also aiming, as it is written therein, to "respond to the recommendations issued by the EARHVD regarding the reinforcement of magistrates training, health professionals and police forces, in order to provide more frontline professionals with knowledge that will improve their understanding of the characteristics and dynamics of these behaviours, as well as



increase the quality of their performance, namely in welcoming and assisting the victim, gathering evidence, assessing the risk and defining and implementing the safety plan"³³.

33 Available @ https://www.cig.gov.pt/wp-content/uploads/2020/06/172-20_PLANO_ANUAL_FORMACAO.pdf (Access on 10th March 2021).



Domestic Homicide Review

07.

**Lessons to be drawn
from the cases
already examined**



CHAPTER

07.

Lessons to be drawn from the cases already examined

In the year 2020, 32 (consummated) homicides occurred in the context of close family relationships and intimacy. The victims were 27 women, 2 children and 3 men. In the year 2019, there had been 35 victims³⁴. These homicides are very often the climax of a sometimes-long history of violence. Some cases are known to social organisations and State services; others are silenced by the victims and also by people close to them, sometimes for years.

The reality of violence in family relationships and intimacy in Portugal is expressed quantitatively, necessarily by default, in the number of enquiries for the crime of domestic violence, which in 2020, according to information made available by the PGR (which has the repository of all those that were filed, regardless of the entity that initially became aware of the facts), there were 35,465 cases. In the year 2019, in 82% of the cases registered by the police forces the victims were women, being clearly an expression of gender violence, being “very important to take into consideration that the person who was a victim of gender violence is never responsible for the actions of the perpetrator”³⁵.

The homicide in intimate relationships often takes place in the victim's home or in a common house and is often committed with a weapon, a sharp object or by strangulation. The perpetrators, particularly men, commit suicide in a much larger number of cases than in other homicides³⁶.

34 Refer to document identified in note 22.

35 PANDEA Anca-Ruxandra, GRZEMNY, Dariusz e KEEN, Ellie (2019). Gender Matters. A manual on addressing gender-based violence affecting young people Council of Europe.

36 Cf. MATIAS, Andreia, GONÇALVES, Mariana, SOEIRO, Cristina e MATOS Marlene (2020) Intimate partner homicide: A meta-analysis of risk factors, *Aggression and Violent Behaviour* 50.



The main lessons to be drawn from the cases already examined by the EARHVD can be summarised in 10 points:

- 1.** Combating violence in family and intimate relationships, which is a violation of human rights, must focus not only on physical and sexual assaults, but also on the apparently less exuberant psychological, social and economic offences and conditioning, as rightly emphasised by the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention/2011).
- 2.** The capacity of early detection of the manifestations of these behaviours is essential for the development of an action model that promotes prevention and is not excessively focused on the archetype of criminal intervention. And also, for criminal intervention to be initiated without delay.
- 3.** Victims must be guaranteed fast and easy access to support services, creating the conditions for follow-up and support for their autonomy to continue.
- 4.** The coordination, communication, sharing information and networking between the entities/services that make up the National Support Network for Domestic Violence Victims will have to be reinforced, with a view to greater effectiveness and action coherence and less resources dispersion.
- 5.** The training reinforcement and capacity building of the professionals intervening in this area is essential for a solid understanding of the reality and a skilled performance of their duties.
- 6.** Compliance with protocols for criminal investigations into domestic violence and other ill-treatment in family and intimate relationships is very important to ensure the swift, regular and effective acquisition and preservation of evidence.
- 7.** There is a pressing need to update, improve and increase the quality of the application of re-victimisation risk assessment procedures, as well as the capacity to implement the resulting measures.
- 8.** Intervention coherence must be guaranteed in the various aspects of a situation of violence in the family and in intimate relationships, namely the effective articulation of criminal intervention, the protection and promotion of children and young people's rights and the regulation of family relationships.



9. The protection of the children involved and affected by these behaviours should be reinforced and deserves special attention from all professionals and entities.
10. Ensuring the protection of the victims and perpetrator restraining during the conflict, the social intervention and the judicial proceedings are concerns that must always be present.

Coimbra, 30th April 2021