

Case: 1/2018-AC



EARHVD

Equipa de Análise Retrospectiva de
Homicídio em Violência Doméstica

FINAL REPORT

Domestic Homicide Review

Report Author

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Domestic Homicide Review

01.

**Identification
of the case**



CHAPTER

01.

Identification of the case

This report concerns the homicide review in a domestic violence context, that was the subject of Enquiry no. (...) of the Public Prosecutor's Office of the District of (...) - Department of Investigation and Prosecution, closed on 20th October 2017, due to death of the defendant, in accordance with the provisions of article 127/1 of the Penal Code.

The victim of the aggravated murder was **A**, aged 42, who died on 27th January 2018 as a result of assaults suffered on 20th September 2017, which caused burns to 80% of her body, including third-degree burns to 90% of this area, in addition to serious injuries to her respiratory tract.

She was the former partner of the perpetrator (**B**), male, aged 51, who died on 21st September 2017, at that same time, having immolated himself by fire.

This report has as main objectives:

- To compile the information that was collected, in order to allow a better understanding of the reality, the pattern of behaviour and the determining factors, as well as the responses of the entities/organisations and the support provided to the victim and to the perpetrator;
- Allowing lessons to be drawn from this case, as broadly and thoroughly as pos-



sible, to fully understand what happened and, more importantly, what needs to be changed to prevent similar events in the future.

The review considered the context of the intimate relationship between the perpetrator and the victim since 2016 and their relationship with the entities mentioned in this report from 2017.

The review process began on 26th January 2018; the draft report was prepared on 13th November 2018; the review meeting was held on 28th November and 5th December 2018.

The Domestic Homicide Review Team (EARHVD) was composed of its permanent members and a non-permanent member, representing the Public Security Police, the security force territorially competent in the area where the facts occurred.



Domestic Homicide Review

02.

**Documentation
Obtained and
Analysed**



CHAPTER

02.

Documentation Obtained and Analysed

The information regarding the case under review was collected in accordance with article 4-A, no.4 of the domestic violence law (DVL)¹ and article 10 of the Ministerial Order no. 280/2016, namely:

- From the Inquiries, from the area of the Prosecutor's Office of the District of (...), for the domestic violence crime and the attempted murder of victim **A**;
- From documentation on the hospital treatment undergone by victim **A**, following the assault suffered on 12th July 2017;
- From the clarifications provided by the Public Prosecutor's Office and the Public Security Police at the request of the EARHVD.

All documents have been anonymised.

1 Law no. 112/2009, of 16th of September, (as worded by Law no 129/2015, of the 3rd of September



Domestic Homicide Review

03.

**Characterization of
the intervening
parties**



CHAPTER

03.

Characterization of the intervening parties

CHARACTERIZATION OF A Victim

Gender

Female

Date of birth

(...) 42 years old at the date of the facts

Marital status

Single

Nationality

Portuguese

Profession

Factory worker

Employment situation

Employed

Municipality of residence

(...)

CHARACTERISATION OF B Perpetrator (A's ex-partner)

Gender

Male

Date of birth

(...) 51 years old at the date of the
facts

Marital Status

Divorced

Nationality

Portuguese

Profession

Seaman/fisherman/lifeguard

Employment situation

Inactive

Municipality of residence

(...)

Domestic Homicide Review

04.

Information collected



CHAPTER

04.

Information collected

1. **A** started an intimate relationship with **B** in April 2016, which lasted until the month of December of that year, having both lived in the same residence in the period from July to October.
2. **B** initially accepted the end of the relationship. However, in April 2017, he began constantly sending messages and calling **A**, requesting the resumption of the relationship.
3. As a result of **B**'s persistence, **A** blocked his mobile phone number, who unhappy about this strategy, started to show up at her doorstep, at her workplace and at her daughter's school (who was seven years old at the time).
4. On 13th June 2017, **A** reported the following facts to the PSP:
 - 4.1 On the 1st June, **B** forced the entry into her residence, grabbed her arm and violently dragged her into the living room, having said "You can call the police I'm not leaving";
 - 4.2 On the 2nd June, at 08.40 am, **B** waited for her at the front door when she was getting ready to go to work, forced entry to her vehicle, took her keys, forced her to drive him so that he would return the keys, slapped her and, when she left, kicked the vehicle. On the same day **B** went to her daughter's school, waited for her and tried to talk to her;
 - 4.3 On the 6th June, at 5.45 pm, **B** again waited for her at the front door;
 - 4.4 On the 8th June, at 5.45 pm, **B** waited outside her workplace, near her car, but did not approach her because she was accompanied by several work colleagues;



- 4.5** Until this date, **B** continuously sent messages, with which he intended to achieve a reconciliation;
- 4.6** On the day of the complaint, 13th June, at 8.50 am, **B** waited for her once again outside her work, blocking the way to her car; she then ran away, but he managed to grab her a metre away from the workplace door and tried to kiss her.
- 5.** It was then stated in the complaint registered by the PSP that “The complainant is afraid, feels uneasiness and damage to her personal freedom since the suspect knows her routines and is afraid that he will assault her again or that he might harm her daughter to get her attention”.
- 6.** The PSP classified the facts contained in this complaint as possibly constituting a crime of assault against physical integrity (article 143 of CP), sent the complaint to the Public Prosecutor’s Office on the 14th June, who reclassified it, on 21st June, as a crime of domestic violence (article 152 CP), delegated the investigation to the PSP and requested that a risk assessment form (RVD-1L) be prepared and delivered back to them.
- 7.** On the 5th July, **A** approached the PSP and gave a statement, reporting that:
- 7.1** On the 23rd June, **B** went to **A** residence trying to talk to her, but she ignored him;
- 7.2** On the 2nd July he chased her to the beach, where she was accompanied by her daughter and a group of friends, for one hour he observed her every move and then sat next to her and remained there despite being asked by her to leave.
- 8.** On the 12th July, the PSP became aware and of a new argument between **A** and **B** and went to the scene. This new conflict also involved a **B**’s niece, PSP reported it in the following terms:

“On arrival at the scene, I was approached by the injured party (**A**) in these proceedings, who informed me that she had just been assaulted by the suspect (**B**), with punches and kicks, falling to the ground and the suspect, taking advantage, hit the victim’s head on the ground, which caused a bruise on her left eyebrow.

The injured party reports that she was talking to the suspect’s niece about all the recent events, at which point the suspect appeared and, without saying anything, immediately started assaulting her, also assaulting her niece, after what he ran away.



The victims of this situation were assisted at the scene by the Rescue Ambulance from the Volunteer Fire Brigade, manned by the Fire Brigade Officer X and by S/CH Y, from the Volunteer Fire Brigade of Z, who transported the victim to the Hospital, in accordance with emergency report no. (...), where she was treated and then discharged.

After leaving the hospital, the suspect followed her, hanging on to the car, which forced the victim to seek refuge at this police station, having identified the suspect again, and then returning home".

On the same date, the PSP drew up an Amendment to the original complaint of 13th June.

9. **A** was seen on that same day at the Hospital Centre (CH), with the clinical information stating that she was "brought by the BV referred by being assaulted around 1.30 pm. She reported left hemicranial pain + pain in the shoulder and left shoulder blade + cervical pain + pain in the legs". She was seen by a doctor and discharged. She returned to the same CH on the 25th August, and the existing records state that she "comes with complaints in the cervical region since the 12th July, when she reports having been a victim of aggression causing trauma in that region". Observed by a doctor, she was discharged.
10. **A** was heard on the 15th of the same month within the enquiry that was being carried out by the PSP, she reaffirmed the facts stated in the complaints and stated that "due to everything that has happened, she is increasingly afraid of the suspect and fears for her physical integrity, and, therefore, she wants to uphold the criminal proceedings against **B**".
11. Subsequently subjected to a medico-legal examination at the INMLCF on 25th August, **A** reported having "suffered aggression with kicks to the shins, her neck was grabbed with both hands, falling to the ground hitting her head on the ground and **B** stuck a finger in her left eye".
12. On that day, 15th July 2017, the risk was assessed for the first time using the RVD-1L² risk assessment sheet, sent to the MP on 4th August along with the enquiry.

² RVD 1L should always be applied in the context of a Domestic Violence report, after a standard report of domestic violence has been made or as an addition to a report.



- 12.1** Ten items were positively identified: 1. Has the offender ever used physical violence against the victim?; 3. Has the offender ever tried to strangle (choke), suffocate, drown the victim or other family member?; 5. Was medical attention required after any assault and/or did the injuries compromise the victim's normal daily activities or those of other family members?; 6. Has the number of violent episodes and/or their severity increased in the last month?; 10. Does the offender stalk the victim, intentionally intimidates her, displays excessive jealousy, and attempts to control everything the victim does? 11. Does the offender display emotional/psychological instability and is not being monitored by a health professional or not taking prescribed medication? 12. Has the offender ever attempted or threatened suicide? 13. Does the offender have problems with alcohol, or other drugs (including prescription drugs), making normal daily life difficult (in the last year)? Does the offender have significant financial problems or difficulty holding a job (in the last year)? 18. Has the victim separated from the offender, tried/manifested an intention to do so?
- 12.2** The only source of information used was the victim.
- 12.3** As a result of the assessment, the calculated risk was high, and the assessor noted in Item 24 - a suitable field to justify the change in risk (which did not occur) - the following: "The number of violent episodes has increased from stalking to physical assault".
- 12.4** As a result of the risk assigned, the following measures were proposed by the assessor and approved the hierarchical superior: "establish regular contacts with the victim" and "re-evaluate the risk up to 30 days after the present assessment".
- 13.** In the scope of the enquiry three witnesses were questioned: (1) an education assistant at the school attended by **A**'s daughter, who stated that she "had seen **B** on several occasions near the school"; (2) another who witnessed the events that occurred on 12th July; (3) **B**'s niece, who was also assaulted by him on the same day.
- 14.** On 31st July **B** was constituted and interrogated as a defendant by the PSP, and denied all the charges against him. He was given an Identity and Residence Identification Requirement.
- 15.** The PSP referred the investigation to the Public Prosecutor's Office on 4th August. On 9th August, the Public Prosecutor's Office issued an order for a forensic examination for the victim and for the victim to present the mobile phone messages received



from **B**.

16. A presented the messages to the PSP, which were sent to the Public Prosecutor's Office on 22nd August, with the following content:



27th May 2017 at 10.15 am



"Good morning my love, the longing I have for you makes me unable to sleep. You are inside me. I love you so much. Later we could go out for dinner. I hope you consider and answer me, kisses."



Day and time unknown



"I love you both so much that I can't resist seeing you, even against your will, it's my character flaw. The love and longing I feel for you both have turned me into an animal without rules whom you must help and ask God that I die in order to free you and end my suffering."



1st June 2017



9.08 pm; 9.20 pm; 9.24 pm called **A** insistently.

10.00 pm "My despair makes me irrational. Your abandonment/departure is killing me. Never leave the one who loves you. What I feel for you is beyond description. You managed to leave me in this state, you took away my life meaning."

10.09 pm tries to call **A** again.

10.29 pm "Your arrogance has left me blind."

11.43 pm "I LOVE YOU VERY MUCH. I've always loved you and I still do, it's just a shame you kick me like a dog that loves its master, and gets fierce when it's mistreated with such contempt in the likeness of an insignificant being who is



capable of doing anything for you."



2nd June 2017



at 3.26 pm "You have driven me into the verge of despair and madness. Loving you has messed me up, your contempt has made me lose my way. Nothing makes sense without you anymore. You've emptied my heart. I just wanted to love you till the end of my life."



at 3.28 pm "forcefully grab me until I have bruises? Hit me in the face? Kick my car? Scaring me is love?"

at 3.29 pm "after these episodes I hope it has become clear that there is no chance at all. Stay away from me please."



"I may stay away from you, but you will always be inside my heart. It may be that one day you will understand my anger and you can value those who love you and know how to forgive my mistakes and yours (love). You managed to kill the dream of being happy at your side. Not forgiving me made me crazy after begging you and crawl at your feet. For everything in this world, I asked you not to abandon me."

at 3.30 pm tries calling.

at 8.30 pm "You needed the clown to protect your ass. You can go to the police any time you want, if I ever get arrested no problem, I'll eat and drink on the state's account, guaranteed retirement. I hope you find the perfect sucker who has the patience to put up with that authoritarian, overbearing, scolding shitty attitude that nothing is right. Everyone around you has to be perfect."

"I really enjoyed living with you, too bad you couldn't handle it. I've overdone it in the test I gave you. You're not a woman to handle a family, that is why you never had one and I don't believe you can have one. You're a demanding woman that not everyone can put up with."



At 8.53 pm "Once again, if you have at least some respect for my daughter leave me alone. If you want to keep any contact stop bothering me. I don't want to, but if necessary, I will definitely press charges."



At 9.01 pm "That was unfortunate. My intention was to help solve your problems and this was the time to do it, but for that we would have to make some sacrifices. The new house is just a matter of days. I fought to get it, as well as a boat so we could have fun with your friends."

At an unknown time "When you need help, for whatever you want, you have a friend here who loves you and who was upset with you for not taking the time to make things work. I hope you are very happy just like I wanted you to be by my side. I wish you good luck in your life. I will continue to love you even if I live away from you."

At unknown time "Your daughter, I will never stop supporting her. Even if it's not through you I will give her everything I want to give her, to do and have fun. Now I have to tame the monster you created in me. I'm going to miss you if only to annoy you. I have never seen you as beautiful as yesterday and today you were in your purest state. I love you."



4th June, at an unnoticeable hour



"**A**, my love, I need the noise mufflers because I'm going out to sea until the 6th of July. If you would be so kind as to lend them to me. Also, could you please order your mum 2 dozen prawn and 2 dozen beef pastries. Kisses, love you."



6th June and other unidentified day(s) and time(s), until 13th June. On the 13th June, A tells PSP that she has blocked B's number



"The lack of sex ends in suffering, which results in a horrible thing that still has no name. It makes people cranky, nagging, nervous and unbearable and we don't even realise how much we miss it. It has nothing to do with love or romance. It's about our life. You were wrong when you dug this gap between us, in the person who wants you and loves you!"

"That's it, fuck, **A**. I love you so much."

"I just wanted to tell you, I want to say I love you very much!"

"Good morning love of my heart. The longing I have for you and your daughter is driving me crazy. I can't sleep, I can't eat or stop thinking about you. I'm a wreck, I've lost 16kg since you left me. You took away my joy of living and loving you and having a life together that we would fight for. I'm thinking of asking your friend (...) for psychological help because she's the only person I trust the most and who knows both sides best so that she can help cure the enormous depression caused by the crush I have for you, and the contempt and abandonment you gave me in return. I would rather she is the one to profit from the trauma I am in, than to pay a stranger. It is urgent because it occurs to me in my mind to cross over to the other side amidst a spectacle you will be watching along with your daughter."

"I just ran into my neighbour who told me you made enquiries about my address. You must be getting ready to go to the police or put me in Court. That's fine with me. It's a shame that you don't know the address where you lived for months, after you were kicked out of your mother's house and on the same day you were sheltered in mine. Here you have everything you need. I love you."

"You will live forever angry that I love you and want to make you happy"

"don't forget to tell the police that I love you very much and that you are the woman of my life"



"**A**, love of my life. Despite our mistakes and differences, I do not treat you with contempt nor will I ever despise you. What you are doing to me doesn't seem to be the best for both of us, some attitudes will only result in other attitudes, but still I love you very much. We're two little fuckers who were made for each other. I still think we can be happy, but you hold grudges, pride and contempt inside you. It's not the same with me. Think about it. Don't just blame me for the outcome of events. Forgiveness and friendship don't exist in your dictionary, but loving you exists in mine. I love you, kisses."

"It looks bad for you to hear from your mouth that I disgust you. It only reveals vulgarity on your part. From me you can only hear that I love you very much."



"Good afternoon, **B**, I would like to know if around 3.30 pm today you will be at your warehouse for me to pick up my stuff. Thank you."



12th July



"Looks like you've already made up for the time you didn't devote to your daughter while you were with me, it was one of the excuses for you to abandon me. After all you've already got your sights set on the next sucker you're going to try to crush. You were unlucky with me, with the warning your sister gave me, I withdrew all the money I had in my accounts and hid it under the bathtub where there's the vent grille and we made a living out of the salary we received. Life was a bit difficult for you, I recognise that you made some effort to try and pay off your debts. I also gave you some that didn't get into your sister's hands like the last month you were with me. You were with me for four months. You put together all the excuses to walk out the door with the next one. Let's see, nail the next sucker to pay for your little car and what you owe to the bank. Maybe your sister wants to warn him, I already told her the good news. I envy not being a woman, they can be happy easier than men, all they have to do is open their legs and they'll drop like flies. I fuck your brains up because I show my displeasure, because I love you so much. I love you very much."



"I'm glad you're telling me all this, so I see you started it all based on lies. It reveals who you are. Deep down I hope you find someone who is right for you and that you are happy. If I am dating or will be dating someone it's none of your business. Goodbye and be happy."



"Look at yourself, deep down you never wanted to admit that the problem is not lack of money. Take care and enjoy that you have a good body to make it pay off."

"I'd like you to see your new house, it looks spectacular. I'm sorry you have wasted the opportunity for us to live there and to be happy. I'm really sorry that you weren't honest about your goals. You were looking for your stability and I could make it happen, you just didn't have the courage to ask me to end with your debts, with your suffering. You didn't want to give in, you didn't give us the time to trust in each other.

You ended the dream of wanting the best for you and your daughter and to help me build a future at your side. You knew it wouldn't be easy during the adjustment. I still think we should go back. The storm you caused by the small sacrifice that I asked of you and the fact that you prioritize what others say and thought there was no money, along with your pride, made you give up.

I am disgusted that we failed and you don't forgive me. I love you in a way beyond explanation. The storm of love has devastated me. I can't forget you, I miss you so much and your contempt towards me is making me confused. Make sure you change so I can change too. Kisses, I love you so much."

"I think you'd better keep quiet because it's going to cause such a scandal that it might give your mother a stroke. The love I feel for you makes these things happen. I love you so much."

"Suffering drives me crazy because I love you."

17. On 23rd August, **A** again approached the PSP and made the following statements:

17.1 "On 15th August, at around 5 pm, when she was in the company of her daughter, under 7 years of age, and a friend of hers, at the handicraft fair in X, **B** approached and behind her back said the following words "YOU ARE DEALING WITH ALL OF THIS WITH A LOT OF COURAGE, LET'S SEE IF IT BACKFIRES ON YOU" and follow his way. The complainant perceived these words as threatening."

17.2 On that same day, "around 4.45 pm, while driving her car to the town centre town, passing at X street she stopped at the pedestrian crossing on X town



square, when she realised that **B** was riding a bicycle in the opposite direction. Coming across her, he turned the bicycle around and leaned against the moving car, held on to the roof as far as Z Street (700 metres), slapping the roof of the car with the palm of his hand at the same time that he uttered words that she did not understand since she closed the window in fear”;

17.3 “(...) every day that passes she feels more afraid of the defendant, since the two times she saw him, he had these attitudes that caused her fear, thus in a certain way restricting her normal daily life”.

17.4 This complaint was received by the Public Prosecutor’s Office on 25th August.

18. On 13th September, the Public Prosecutor’s Office issued an order in which it (1) orders to request the Criminal Record Certificate (CRC) of the defendant and obtain information from the database of the Provisional Suspension of Proceedings; and (2) establishes **A** hearing and **B** interrogation for the 21st September. **B** is notified on the 15th September.

19. Day 20th September 2017, according to the description given by the Judiciary Police:

19.1 **A** left work, at around 6.36 pm, going on foot to a street where she had parked her car. She got into the vehicle normally and sat in the driver’s seat. Suddenly and without any warning, **B** appeared with a hammer in one hand, a knife in the other and a backpack on his back.

19.2 **B** approached the car in which **A** was sitting and hammered the driver’s side window, where **A** was sitting, breaking it. Then, armed with a kitchen knife he introduced his arm inside the car, through the broken window and started to strike several stabs in **A**’s direction.

19.3 **A** managed to avoid the stabbing and **B** took out of the backpack a 5-litre container with fuel l from his backpack and threw the fuel inside the car.

19.4 **A** then got out of the car through the passenger door and started to run away. **B** dropped the knife and the backpack, turned the car around and followed **A** with the container in his hand, reaching her 150 metres ahead in the middle of the road, where he began to assault **A** savagely, with kicks and punches to the face, causing her to fall to the ground.



19.5 B then picked up the fuel container, poured the remaining contents over him and immolated himself with a lighter, causing an explosion. He then threw himself on top of **A** and grabbed her. **A**, who was also wet with fuel, started burning too.

20. **B** died on the 21st September 2017 due to burn injuries, according to the autopsy report from 9th January 2018.

21. **A** came to die on the 27th January 2018 as a result of "multi-organ dysfunction in the context of septic shock, which occurred as a complication of burn injuries on 80% of the total body surface area", according to the autopsy report from 28th August 2018.

Domestic Homicide Review

05.

**Clarifications
provided by the
Public Prosecutor's
Office and the Public
Security Police**



CHAPTER

05.

Clarifications provided by the Public Prosecutor's Office and the Public Security Police

5.1. Clarifications provided by the Public Prosecutor's Office

On the 17th September 2018, were requested clarifications from the Public Prosecutor's Office. Feedback was received on 23rd October, which is transcribed below.

From the records analysis, the complaint filed by the victim on the 13th June 2017 was classified by the PSP as a "crime against physical integrity", and the MP determined, on the 22nd June 2017, its reclassification as a "domestic violence crime" and delegated in that criminal police body to investigate and "to send the risk assessment form". PSP only sent this "form" together with the enquiry, which was received at the Public Prosecutor's Office on the 8th August 2017. There weren't take any procedural initiative in the meantime. Therefore, we request the following clarifications:

- 1. Why didn't the Public Prosecutor's Office, with a view to complying with the procedure established in article 29-A from LVD, order PSP to "urgent act in order to obtain evidences"?**

In the specific case, in addition to the responsible Public Prosecutor had reclassified the criminal typology as a Crime of Domestic Violence and, simultaneously, had determined



the sending of a risk assessment form and to search for any other pending enquiries against the defendant, which had a negative result, the investigation was referred back to the criminal police for further investigation. Given the very incipient circumstantial evidence, it did not appear necessary to determine immediately any urgent measure, since the reality and circumstances of the facts, according to the criminal police body narrative present in the complaint, did not appear to be of manifestly high gravity, unaccompanied by the risk assessment form.

- 2. As the present investigation was initiated close to the start of the judicial holidays, what are the procedures in place to guarantee its urgent processing, its adequate follow-up, the monitoring of compliance by the criminal police body with the orders issued in this case and the compliance with the deadlines set out in the LVD?**

The procedures in place in the Public Prosecution Department in (...), broadly in line with those outlined in the Public Prosecutor's Office in the district of (...), are meant to grant an urgent and priority nature to the enquiries that have as their object facts that are susceptible of the practice of the crime of domestic violence, so that these are carried out during judicial holidays. Both civil servants and criminal police bodies are aware of the of due procedures, including, in particular, the apposition of a red cover to the enquiry, the sending of a risk assessment form to evaluate the implementation of urgent measures and the attribution to the victim of the respective legal status, without forgetting the compliance with legal deadlines defined in Law no. 112/2009, of 16th September.

- 3. Why was it considered that there was no need to take any initiative with the aim of protecting the victim or applying a more serious measure to the defendant than the Identity and Residence Identification Requirement, after having received the enquiry from the PSP (from 8th August), the content of the mobile phone messages sent by the defendant (from 24th August 2017) and that the victim had presented her statement on the 23rd August 2017 (received on the 25th)?**

Regarding the case, and notwithstanding the fact that the Public Prosecutor who issued the order during the judicial holidays was aware of the possible seriousness of the facts, and the possible need for a more serious coercive measure than the Identity and Residence Identification Requirement, the decision rendered was to notify the victim within 10 days, to attach a copy of the messages she said she had received to the case-file or to go to the police station in order for the messages could be transcribed, with the clear intention of better supporting the complaint. The transcription of these messages was received at the Public Prosecutor's Office on 24th August 2017.



4. Was the complainant given the victim status?

It is confirmed that in the scope of the investigation with the NUIPC (...) the victim status was not attributed to the complainant.

5. The perpetrator and the victim were summoned to appear before the Public Prosecutor's Office on the 21st September 2017, he at 10am and she at 10.30 am: had any security procedure been adopted to prevent, in the event of the visit, their meeting on or near the judicial premises or in their proximity?

No security procedures were ever adopted regarding the scheduled appointment for 21st September 2017, where the victim's testimony and the defendant statements would take place, specifically because the proceedings in question were not carried out.

*The victim had a daughter from a previous relationship, having expressed fear that **B** could "do something to her daughter to get her attention", and there are several reported occasions in the case-file where the child was present in situations of confrontation between the mother and the perpetrator. We request the following clarification:*

6. Has any initiative been taken to protect the child, either by promoting the intervention of an entity with competence in matters of childhood and youth or CPCJ, or promoting judicial intervention?

No measures were adopted for the articulation with the children's jurisdiction, because there was no concrete reference to any fact or behaviour that could be represent lack of security or violation/injury to any of the minor's interests or rights of the minor, also because her identification data (name and age) was not known.

PGR also informed that "in March 2018, was created a Working Group aiming to develop a strategy against domestic violence for the Public Prosecutor's Office, with the prospect, in the short term, to develop functional hierarchical instruments, highlighting the adoption of good practices and standardization of procedures in the criminal and family and children's jurisdictions".



5.2. Clarifications from the Public Security Police

On 14th September 2018, were requested clarifications from the Public Security Police. Feedback was received on 22nd October, which is transcribed below.

As proven by the records analysis, the complaint filed by the victim, on the 13th June 2017, was classified by the PSP as a "crime against physical integrity", and the Public Prosecutor determined, on the 22nd June 2017, its reclassification as "crime of domestic violence" and delegated in that police body the investigation and "the implementation of the risk assessment form".

1. As this is an enquiry to investigate a domestic violence crime, the following questions are raised:
 - a. Why was the provisions of article 29-A LVD not complied with?

The complaint filed by the victim (A), on 13th June 2017 was categorized as a crime against physical integrity by the Police Station of (...), more specifically as a simple and voluntary offence against physical integrity. Although it was initially classified as an offence against physical integrity, by the PSP, the situation was forwarded the next day (14th June 2017) to the Public Prosecutor's Office, holder of the case, for assessment and decision. The complaint was then reclassified as domestic violence and sent by the case holder to the PSP, for enquiry and risk assessment form, which was completed. Article 29-A, number 2 of the LVD states that "with the complaint, the victim is always referred to the local support centre for development of a safety plan, if one has not been prepared by the prepared by the criminal police body and for the purposes of receiving other support legally provided". In this case, the victim was not referred to the local support centre, since the municipality of (...) did not have, at the time, a support centre for domestic violence victims, nor any other domestic violence support especially dedicated to this group of victims.

- b. Why was the complainant not given the status of victim (art. 14 LVD)?

The status of victim was not initially granted because the complaint filed by victim A on 13th June 2017, was categorized by the Police Station as a crime against physical integrity, more specifically the crime of simple voluntary offence against physical integrity. When the case returned to the PSP from the Public Prosecutor's Office for investigation, it continued to be based on previous reported facts, that is to say, it was not converted into a standardised domestic violence crime (due to incompatibility of the system),



and the status of the victim was not attributed. The attribution of such a status was not requested either by the victim or by the officer in charge of the case. Nevertheless, it is generally considered that the rights guaranteed by the victim's statute have been or, if necessary, would be safeguarded.

- c.** Were the professionals who took part in this enquiry, at the time of the facts, trained in domestic violence? If yes, please provide details of that training.

The majority of the agents who contacted with the victim, including the Police Station Commander and the officer in charge of the enquiry, have undergone training in domestic violence (Manual on Domestic Violence and Risk Assessment for Domestic Violence Situations), since 2014/2015, in a total duration of 7 hours.

- 2.** The risk assessment was carried out on 15th July 2017 and revealed a high-level risk. The only protective measure proposed is to "establish periodic contacts with the victim", and a reassessment of the risk was set within 30 days. Regarding this procedure we request the following clarifications:

- a.** Why was the risk assessment not immediately sent to the MP, as had been requested by the MP?

The request for the dispatch of the risk assessment form was not made in an autonomous specific document, but rather in the document that instructed the PSP to investigate. As such, the risk assessment was drawn up during the course of the investigation, incorporated into the file and forwarded to the Public Prosecutor's Office upon its conclusion by the PSP.

- b.** Was the result of the risk assessment communicated to the victim?

Yes, the result of the risk assessment was communicated to the victim when it was carried out since it was completed on the basis of information provided by the victim.

- c.** Although the risk was considered high, why wasn't prepared a safety plan for the victim, but only "to establish periodic contacts with the victim"?

Providing a safety plan to the victim is a procedure subsequent to domestic violence situations. As the initial accusation was set as a simple and voluntary crime of offence to physical integrity it was not drawn a safety plan for the victim. The PSP was not subsequently mandated to draw up such a plan. It was decided to establish



periodic contacts with the victim, as these were considered sufficient to safeguard the victim's protection and her rights.

- d. Has this measure been implemented? Is there documentation to prove it?

This measure was not implemented in a conventional way, but through contacts with the victim; the victim went to the PSP Police Station on her own initiative, and also by contact with the victim in the events registered on the 12th July 2017.

- e. Why was it defined a 30 days deadline for the reassessment of the risk instead of the 3 to 7 days recommended for a high-risk situation?

The definition of the 30-day period, instead of the 3 to 7 days stipulated for cases of domestic violence, was an oversight when filling in the risk assessment form.

- f. Why was this 30-day deadline not met?

The situation was not reassessed by the Police, as before the expiration of the 30 days, the investigation had already been referred to the Public Prosecutor's Office.

- g. Were the professionals who conducted the risk assessment and confirmation trained in this matter? If so, we request that the dates and times of this training be specified.

The person responsible for the risk assessment form has specific training on the domestic violence report and the domestic violence policing manual, since 4th June 2015, training with a duration of 7 hours. Also, the commander of the Police Station, at the time, had training on the domestic violence report and on the domestic violence policing manual, since 18th September 2014, with 7 hours of training, although he did not have specific training in the area of criminal investigation.

3. The victim had a daughter from a previous relationship and expressed fear that **B** might "do something to her daughter to get her attention", and there are several occasions on the record where the child was present in confrontational situations between the mother and the perpetrator. We request the following clarifications:

- a. Was any measure taken to protect the child?

No specific and particular measure was taken with the specific intent to protect the



child, daughter of the victim, because no situation was verified in which the child's safety was in danger. This fear was only expressed by the complainant at the time of the complaint, later on, through the exchange of messages between the complainant and the perpetrator, it was understood that the perpetrator valued and respected the child, who was the daughter of the complainant.

- b.** Was the child's situation communicated to the CPCJ or any other competent entity to protection? If yes, to which one and on what date? If not, why was this communication considered unnecessary?

As mentioned above, the child was not considered to be at risk/in danger and, for that reason, the situation was not communicated to the CPCJ nor to any other entity.



Domestic Homicide Review

06.

**Timeline of the case -
graphic representation**



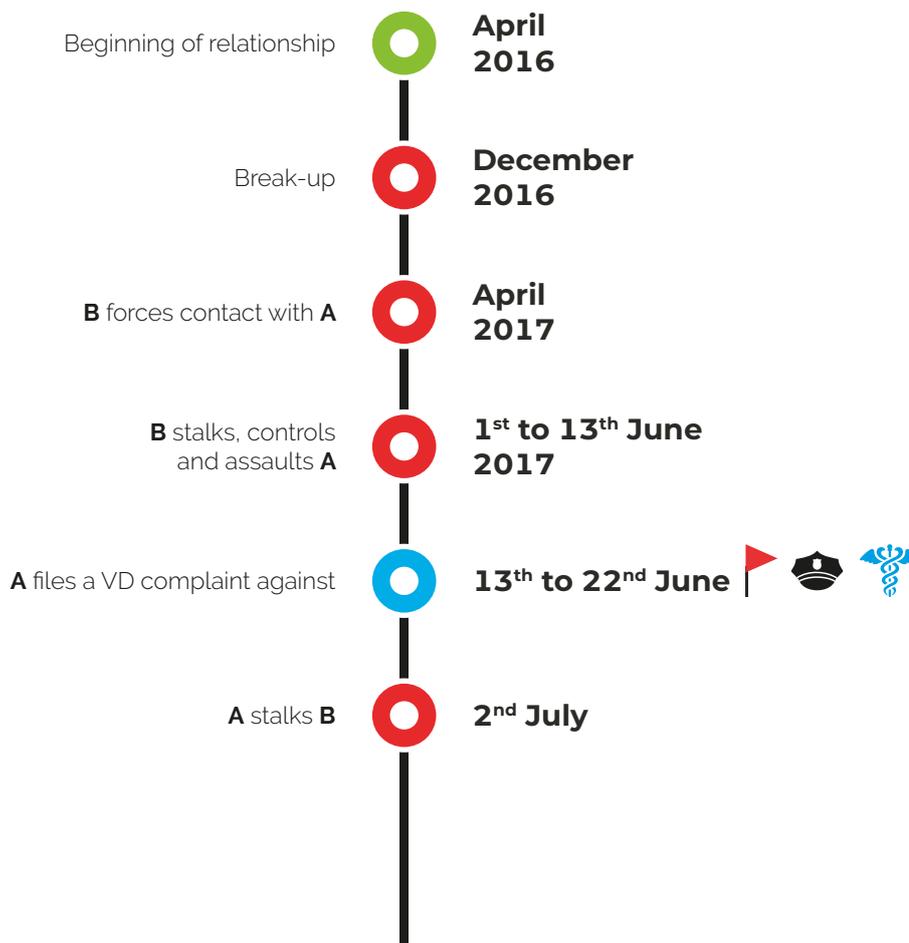
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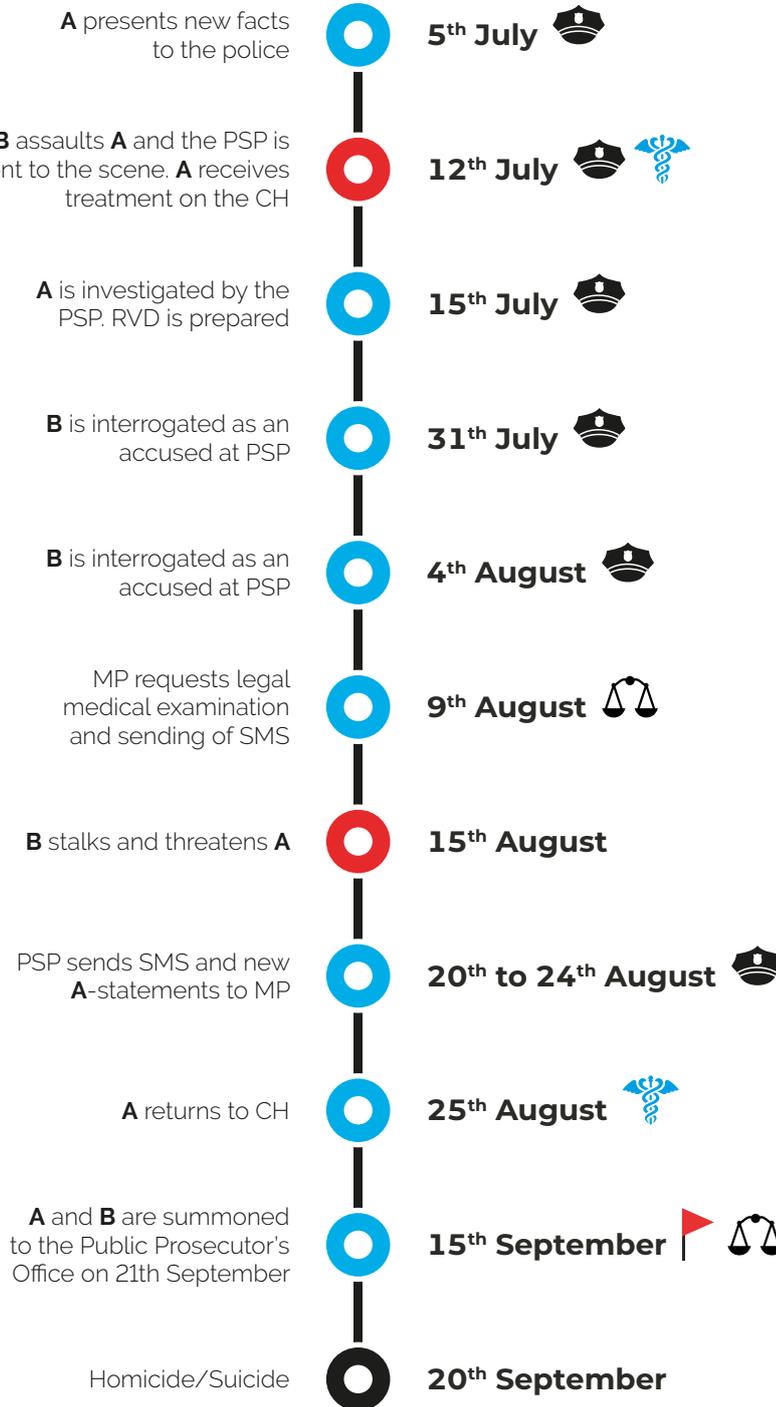
06.

Timeline of the case - graphic representation

Based on the collected information, a timeline of the case was drawn up, which includes the most relevant events for its analysis.

Timeline – from April 2016 to 15th July 2017





Legend

- Beginning of relationship
- Background/risk factors
- Opportunities for intervention
- Homicide
- Contacts with Justice
- Contacts with Police Forces
- Contacts with Health
- Risk triggers



*RVD risk factors identified: in the RVD-1L of 15th July 2015, 10 risk factors were identified.

No. 1 - Has the offender ever used physical violence against the victim?

No. 3 - Has the offender ever tried to strangle (try to choke), suffocate, or drown the victim or other family member?

No. 5 - Was medical attention required after any aggression and/or did the injuries compromise the victim's normal daily activities or those of other family members?

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

No. 10 - Does the offender stalk the victim, intentionally intimidates her, display excessive jealousy and tries to control everything the victim does?

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

No. 12 - Has the offender ever attempted or threatened to commit suicide?

No. 13 - Does the offender have problems with alcohol or other drug use that make normal daily life difficult (in the last year)?

No. 16 - Does the offender have significant financial problems or difficulties in maintaining employment (in the last year)?

No. 18 - Has the victim separated from the offender, tried/manifested intention to do so; does she have support from others?

Domestic Homicide Review

07.

Review



CHAPTER

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Review

We consider it essential to try to frame and understand the variables present in this case, which resulted in the death of both parties involved, as well as what could have been done differently for a better and adequate risk management.

7.1. The perpetrator's behaviour. The victim's requests for help. The risk triggers and opportunities for intervention

There was significant evidence that **B** was a controlling individual and obsessed with **A**, was violent and aggressively pursued her even though he knew she didn't want him around. Although he apparently accepted the separation at an early stage, the truth is that he never accepted the end of the relationship. Since the break-up, **B** tried by all means to control **A**'s routines and resume the relationship, having adopted a set of strategies that varied from apparently conciliatory attempts to strongly aggressive ones.

B assaulted **A** several times, and she even received medical treatment for the aggressions she suffered. He once tried to choke her in a public road. He exercised coercive control and intentionally intimidated **A** (e.g., through text messages; breaking and entering in her residence), exercised repeated and aggressive stalking, waiting for her outside her workplace, at her daughter's school, interfering in her daily life with her friends.

We also noted that **B** revealed unhealthy jealousy, and that his conduct was deliberately aimed at triggering fear in **A** and her return to the relationship. He showed emotional/psychological instability, knew **A**'s routine, watched her and stalked her. The homicidal/suicidal ideation was present in the messages sent to **A**. His controlling personality



manifested itself in behaviours of waiting, surveillance, manipulation (evidenced in the text messages and in the variation in tone between conciliatory and aggressive), coercion and invasion of the victim's public and private space (invading her home, pursuit in public, presence near her home address and the workplace). The decision to kill **A**, because he did not want to let her live free of his control shows, on the other hand, how dependent he was on that relationship.

A was proactive in seeking protection and tried for 3 months to get **B** to stop that behaviour, showing him unequivocally that the relationship was over. Facing **B**'s escalating aggressiveness, fearing for her safety and the safety of her daughter, she sought help from the aggressor's family members, the police forces and the justice system, without success.

There were some moments which worked as triggers of the already existing risk and that determined the increase of **B**'s controlling behaviours and the escalation of the violence. The first moment was the separation, the second was the filing of the complaint and the involvement of the PSP in the conflict, and the third was the notification received on 15th September to give his statement at the MP as a defendant, on the 21st (one day after the fatal aggression to **A** and his suicide).

There were relevant intervention opportunities, i.e., decisive moments when the PSP and the Public Prosecutor's Office should have taken the initiative to adopt measures to protect **A** and contain **B**.

The most visible opportunities, in what concerns the action of the PSP, are those in which the police force was directly involved in the conflict, because those instances are well identified in space and time, in particular: at the time when the complaint was received, when the PSP was called to the place where one of the episodes of violence occurred, when the risk was assessed and the protective measures were established, when the victim was questioned and when the accused was questioned. We recall the chronology of these intervention opportunities:

- On 13th June 2017 when the first complaint was received, which was typified as a crime against physical integrity and not as a domestic violence situation.
- On 5th July 2017, the PSP heard **A** in a Statement, in which she confirmed **B**'s stalking behaviours.
- On 12th July, **A** and **B**'s niece were assaulted, and the PSP went to the site and prepared the corresponding report.
- On 15th July, **A** was heard again and the risk was assessed as high, but there is no



record of safety planning, and the only protective measure adopted is to “establish periodic contacts with the victim”; the deadline for risk reassessment was set at 30 days, contrary to the recommendations in the RVD-1L form.

- On 31st July, **B** was formally charged and questioned in this condition.
- On 23rd August, **A** was heard again and filed a new complaint, without the risk reassessment form (RVD-2L³) having been applied.

As far as the Public Prosecutor's Office is concerned, there were moments when there was already enough information to act so that the protection of the victim could be guaranteed and an adequate procedural status for the accused could be defined; these opportunities were the following:

- On 23rd June, the Public Prosecutor's Office sent the records to the PSP, delegating the investigation to this criminal police body, requesting “a risk assessment form”, which reception could not control.
- On 08 August, the result of the investigation conducted by the PSP was received, with indicative evidence of B's actions and of the danger A was in, as well as the risk assessment requested to the PSP.
- On the 24th August, the paper copy messages sent to the PSP by A were received at the Public Prosecutor's Office and, on the 25th August, a new complaint was presented to the criminal police body.

7.2. Judiciary Intervention analysis

7.2.1. The attitude towards the complaint

On 13th June 2017 the victim reported to the PSP the facts committed by **B**. PSP classified the facts as possibly constituting a crime of offence against physical integrity (article 143 of the Penal Code) but, on 21st June, the Public Prosecutor's Office reclassified it as domestic violence (article 152 of the Penal Code), and delegated the enquiry to the PSP and requested the risk assessment form (RVD-1L) to be filled in and forwarded to the

³ The RVD 2L should be used when reassessing the risk, i.e., at a later stage than the recording of the report, and it should be prepared by the police officers in contact with the victim, within the scope of criminal investigation or proximity policing.



MP. The risk assessment took place on 15th July and was sent to the Public Prosecutor's Office together with the enquiry, on the 4th August.

Since October 2015, the LVD establishes in its article 29-A the procedures that must be triggered immediately after receiving a complaint, which aim to assess the risk of revictimization and victim protection, on one hand, but also the collection of evidence in order to assess the need to apply a coercive measure to the accused. It also establishes short deadlines for compliance. Thus, the criminal police body must ensure the immediate protection of the victim, take any precautionary and police measures that may be appropriate and assess the risk to the victim. The necessary steps to acquire evidence and details about the situation, in order to make an indicative assessment, should be carried out within 72 hours. In light of what has been ascertained, the victim's protection plan must be defined (which will be based on "providing guidance on self-protection or an individual safety plan") and the Public Prosecutor's Office must consider the need for the investigating judge to apply a measure of restraint, which will take place within a maximum of 48 hours after the accusation (article 31, number 1 of the LVD).

In addition, Article 14 of the LVD states that "upon complaint of the practice of the crime of domestic violence, and whereas there are no strong indications that the complaint is unfounded, the judicial authorities or the competent criminal police bodies will grant the victim, the status of victim for all legal purposes", except if the victim expresses the wish to waive it (Articles 14, number 1 and article 24, number 1 of the LVD).

In the situation under review, none of the legal provisions identified above and aiming at a quick and expeditious action when faced with a domestic violence complaint, were complied with, having been characterised by the inaction of the judiciary entities:

1. The complaint was reclassified as domestic violence on 21st June and on 5th July new facts were reported. These facts occurred on 23rd June 23 and 2nd July. The hearing of the victim and the risk assessment only took place on 15th July, after the occurrence of further violent behaviour by **B** (with a visit to the scene by the PSP), and the accused is only constituted as defendant and questioned on the 31st July;
2. The risk assessment was only sent to the Public Prosecutor's Office, together with the enquiry, on 4th August. The Public Prosecutor had not previously requested it although the result indicated a "high risk", with the express mention of the worsening of violent episodes;
3. **A** was never attributed the status of victim, either by the PSP or by the Public



Prosecutor's Office;

4. In the first order of the Public Prosecutor's Office, after receiving the enquiry prepared by the PSP, on 9th August, no position was taken on the safety of the victim or the procedural status of the defendant, nor as it was not until the date when the assault that led to the death of **A** and the suicide of **B** occurred (20th September).

7.2.2. Risk assessment

The risk assessment, using the RVD-1L, was carried out by the PSP on 15th July, at the request of the Public Prosecutor's Office, and 10 risk factors were identified. Considering the risk factors identified the risk was correctly classified as *high*, but did not have the management that would have been appropriate. The PSP decided from of all the measures available, and more appropriate to the risk level identified, to adopt only the measure of "establishing periodic contact with the victim". However, there is no record that it was executed, in this matter we recall the recommendation made by EARHVD in Dossier No. 1/2017-AC: *"steps regarding implementation of protective measures and safety plan defined for the victim as well as the incidents of their implementation, should be recorded in a specific document, which will be attached to the criminal proceedings, so that it is possible to know and control its effective execution"*.

Taking into account the identified risk several measures could have been applied, also foreseen in the Law and reinforced through the RVD, namely: the arrest of **B** out of flagrante misdemeanour, with a view to the application of a coercive measure; to refer **A** to the teleassistance program; to reinforce the patrolling near the location of the victim's residence/workplace; report **A**'s daughter to the CPCJ of her area of residence; if necessary, refer **A** to a domestic violence shelter. In fact, there was no risk management and the developed procedures were ineffective, because the risk re-evaluation was scheduled within 30 days, contrary to what is recommended in cases of high-risk level (which establishes a re-evaluation within 3/7 days), but also because the re-evaluation never took place, despite the fact that the victim went to the police station at least once more.

In the case of perpetrators with a profile similar to **B**'s (controlling personality and stalker), it is essential to establish a robust plan to protect the victims and stop the stalking, control and violence. Despite the seriousness of his actions, **B** continued to exercise violence, harassment and control over **A** without any restraint measures being taken.



The PSP and the Public Prosecutor's Office did not use the protection mechanisms or trigger the procedures for the application of coercive measures consistent with the high-risk situation that had been detected.

7.2.3. The criminal investigation

When investigating the facts, which may be part of a domestic violence crime, the judiciary entities act in the following way:

1. The investigation and collection of evidence on past facts, which have already occurred;
2. The knowledge of the relational dynamics between the victim and the perpetrator;
3. Protecting the victim and neutralising new possible or foreseeable violent conducts of the perpetrator.

Assuming the public nature of this crime, they are therefore required to have a proactive attitude, starting with gathering evidence, particularly in the case of facts generally occurring with no witnesses and in a context in which the victim is subject to a great level of constraint, which makes it difficult to cooperate with the investigation.

In the present case, the victim was active in reporting and asking for help, from the first (on 13th June) until the last complaint she filed (on 23rd August 2017). But the judiciary and police entities

did not react quickly and effectively to these initiatives of the victim. An example of this is PSP attitude in the investigation: (1) limited its action to question the witnesses indicated by the victim, without having sought to identify and hear other parties, not indicated by the victim, who may have knowledge of the situation; (2) the first complaint was presented on the 13th June and the hearing of the victim and the risk assessment only took place more than a month later (15th July) and the defendant interrogation only took place on 31st July; (3) did not give any relevance to the messages (SMS) that **A** claimed to receive from **B**, which were only included in the investigation at a later stage, by MP determination in the ministerial order of 9th August.



7.2.4. The action of the Public Prosecutor's Office during the judicial holidays

The enquiry under review began on 13th June 2017 and the assault on **A** that led to her death occurred on 20th September of the same year, having therefore taken place partly during the judicial holiday, which, according to article 28 of the Law on the Organization of the Judiciary System (Law No. 62/2013, of 26th August), cover the period from 16th July to 31st August.

The investigation prepared by the PSP with the high-risk assessment was received by MP during this period of judicial holidays, and the ministerial order of the Public Prosecutor on duty, of 9th August, was not on victim protection and the aggressor restraining, and only validated the constitution of the accused as defendant, requested the victim medical-legal examinations (received on 4th September) and ordered the victim to submit the messages (text) she had received, which she had emailed to the PSP on 22nd August. The subsequent order from the Public Prosecutor's Office is dated from 15th September, ordering the presence of both, which should have taken place on 21st September.

According to the statistics that have been published, the months of July and August (which correspond to the judicial holidays period) have been those with the highest number of domestic violence reports and occurrences (cf. *Annual Report on Domestic Violence Monitoring: 2015*, pp 18/19; 2016, p. 19) and, along with September, of femicides (cf. comparative data from 2004 to 2017 from *UMAR's Observatory of Murdered Women, Data 2017*). This is yet another reason why the actions of the Public Prosecutor's Office cannot, in this period, be of lesser intensity in the processing of domestic violence enquiries than in the other periods of the year.

7.2.5. The summoning of the offender and the victim for the 21st September 2017

In any domestic violence situation, it is essential to ensure the safety of all parties involved, from victims to professionals. There are many cases that prove that a significant number of situations of serious aggression and even homicide have occurred in the presence of and victimised third parties including professionals.

The domestic homicide review carried out in other countries has taught us that many of these cases occur when there is something that threatens the control that the ag-



gressor exerts over the victim. The danger increases if there is stalking in addition to the controlling behaviour. The most common examples of control loss from an aggressor with a controlling personality are the break-up, filing of a victim's complaint, the arrest, the notifications of proceedings and the consummation of the divorce.

In this particular case, the victim and the offender were notified to present their statements to the Public Prosecutor's Office on the 21st September, **A** at 10.00 am and **B** at 10.30 am. On the previous day, 20th September, took place the assault that would result in the death of **A** and **B**'s suicide, when he felt he had lost all control over her. This notification could have been the final trigger for this behaviour.

7.2.6. The possible provisional suspension of proceedings in this case

In the ministerial order issued on 13th September, the Public Prosecutor summoned the victim and the accused to the 21st September and requested the CRCs and information from the database on provisional suspension of proceedings.

It is clear from the ministerial order that the intention was to endeavour to apply this form of resolution of the criminal process to this case. No initiative was taken to protect the victim or to restrain the aggressor.

Article 281/7 of the Code of Criminal Procedure states that the application of this instrument of criminal procedure to the domestic violence crime relies on the "free and informed statement from the victim", which is reaffirmed in the Directive no. 1/2014 PGR (Chapter X, 1.). In other words, the victim cannot be forced to participate in any process of alternative conflict resolution, as expressly results from the Portuguese law, article 48, number 1. of the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; cf. Explanatory Report, point 252).

Neither the victim had made such a request, the positions taken by both during the investigation, nor the conduct and the aggravation of **B**'s aggressive action, would advise such a course of action. Scheduling that diligence constituted another moment of inaction by the judiciary system in this specific case.



7.2.7. The pattern of (in)action of the police and judiciary

A filed the first complaint with the PSP on the 13th June 2017 and suffered the attempted murder on 20th September 2017, having deceased on 27th January 2018 as a result of her injuries. Between initial contact with the PSP and the MP 98 days elapsed with several serious incidents and with several opportunities to protect the victim and restrain the perpetrator.

Although the risk was assessed and classified as high, both the MP and PSP did not identify the danger the offender posed to **A**, and it was clear that they were unable to interpret the danger signs **B** was showing, namely the absence of limits, the escalation of aggressive behaviours and the contents of the texts he sent to **A**, which were submitted to the Public Prosecutor's Office on 22nd August as indicative of an ideation of committing a homicide/suicide.

We consider that all the actions taken by the Police and the Public Prosecutor's Office were limited to following a formal procedure without proactivity, namely in what concerns risk assessment management and that no effective measures for the protection of victim **A** - and also of her daughter - were triggered.

Although there were alarming indicators, namely the violent events and the victim's requests for help, there was no skills to recognise the alarm signs, to "connect the dots". They only perceived isolated incidents or individual markers, rather than a pattern of behaviour.

The EARHVD recommendation issued in dossier 4/2017-VP, is reiterated here, worded as follows:

"(...) reinforce training on violence in intimate relationships, violence against women and domestic violence, in order to provide knowledge and skills to a larger number of police forces first line professionals that will improve their understanding of the characteristics and dynamics of these behaviours. The goal is to improve the quality of their performance, namely in victim attendance and assistance, in evidence collection, in risk assessment and in the design and implementation of the safety plan".



7.3. The (non) action of the National Health Service

Despite the fact that **A**, due to the aggression, went twice to her CH to receive clinical assistance, she was never questioned about the origin of the injuries or, if this did happen, no relevant record was made.

As observed in cases previously analysed by the EARHVD, the Health Department did not seek to assess the domestic violence situation, or at least did not document such investigation, nor did it initiate protective measures in order to prevent the repetition of the phenomenon and, in this case, due report to the entities that should have acted to prevent the outcome.

In dossiers no. 1/2017-AC and no. 4/2017-VP, the EARHVD produced the following recommendations, which are now reiterated:

- a.** That health care providers should systematically assess the risk of domestic violence. In all screening processes should be asked objective questions regarding violence within the family, and all information should be duly recorded - in accordance with the technical reference Manual "Interpersonal Violence - Approach, Diagnosis and Intervention in Health Services" of the Directorate-General for Health.
- b.** That all health service professionals must register patient statements regarding violence to which they may be subjected and the occurrences that, in this area, they detect during their daily professional practice.
- c.** Whenever there is a justified suspicion or confirmation of domestic violence, health professionals must provide information on victim support resources and take the necessary safety measures. And also, must report these situations to judiciary entities following the guidelines of the above-mentioned Manual.

In the face of domestic violence, the role of Health cannot and should not be restricted to the mere symptomatology treatment and the reparation of physical and psychological lesions, which result from this context.



7.4. Oversight in relation to A's child

Victim **A** had a daughter: at the time of the facts, she was 7 years old. This child is mentioned three times by **A**: when she filed the original complaint and stated that she feared **B** might “do something to her daughter to get her attention”; in the complaint of 5th July, in which she said she had been harassed by **B** when she was in the company of her daughter; and when she filed another complaint on the 23rd 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, number 1, paragraph f) of the Law of Protection of Children and Young People in Danger, so that the PSP and later on the Public Prosecutor's Office, should have communicated it to the CPCJ of the area of the child's residence, in compliance with article 64, number 1 of the same law: “The police and judiciary authorities communicate to the protection commissions the situations of children and young people in danger, of which they gain knowledge during the exercise of their functions”.

Often children are threatened, abused and even killed, in circumstances similar to the ones here described. Children may be used as a way to control and threaten the victim. Whenever children are involved, they will certainly be at risk, even when not present at the violence episode itself, and any safety plan or intervention should include 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 neglected. The child was one of the means of **B** controlling **A** and causes her fear. The child witnessed the conflict involving her mother. From what we can gather, the child never had any support from the entities were involved in the conflict between **A** and **B**. In fact, the child's suffering was ignored.



Domestic Homicide Review

08.

Conclusions



CHAPTER

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Conclusions

- 8.1.** **A** and **B** maintained an intimate relationship between April and December 2016, having cohabited in the period from July to October of that year. In April 2017, **B** intended to resume the relationship, but as **A** did not wish to do so, he began to physical and psychological abuse her, until when on 20th September he assaulted her again, he soaked himself with fuel, which he then set alight with a lighter; he grabbed her, who was also doused with fuel and started burning. **B** died the next day from burn injuries and **A** died on 27th January 2018 due to "multi-organ dysfunction in the context of septic shock, which occurred as a complication of burn injuries over 80% of the total body surface area".
- 8.2.** During that period of time, **B** assaulted **A** on several occasions, exercised coercive control over her, repeatedly stalked her, threatened her, engaged in behaviour intended to instil fear, invaded her private space and harassed her in public; some of these behaviours took place in the presence of her daughter, then aged 7 years old.
- 8.3.** On 13th June 2017, **A** reported to the PSP the physical and psychological aggressions and harassment of which she was being victim of, also expressing fear that he could "do something to her daughter". On 5th July, she filed a new complaint with the same criminal police body for repeated conduct of harassment by **B**, in the presence of her daughter. On 12th July she was again physically assaulted by **B**, and the PSP was called to the scene. On 23rd August she filed another complaint for harassment and threats, again in the presence of her daughter. Between 27th May and 12th July 2017, she received constant text messages from **B** with a tone ranging from conciliatory to aggressive, which she added to the investigation.
- 8.4.** **A** was proactive in seeking protection. Faced with **B**'s escalating aggressiveness, fearing for her safety and that of her daughter, she sought help, for more than 3 months, specifically from police forces and the legal system, without any result.
- 8.5.** Despite the fact that, according to the assessment performed on 15th July, the high-risk level, no protective measures for the victim and restraint measures for the perpetrator were implemented. The contact she had with the National Health



Service and the Public Prosecutor's Office were missed opportunities to intervene.

- 8.6.** Although **A** had expressed concern for the safety of her 7-year-old daughter, and although the records reveal that the child was present in situations reported by her, neither the PSP nor the Public Prosecutor's Office took any initiative to set in motion the appropriate procedures for the safety and protection of the child.



Domestic Homicide Review

09.

Recommendations



CHAPTER

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Recommendations

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

1. The EARHVD recommends to the Commission for Citizenship and Gender Equality (CIG):

The urgent implementation, with regard to police forces and public prosecutors, of the specific objective "4.1. Initially and continuously train professionals for intervention in Violence against Women and Domestic Violence" of the Action Plan for the Prevention and Combating of Violence against Women and Domestic Violence 2018-2021 (PAVMVD).

2. The EARHVD recommends to the Public Prosecutor's Office:

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.

3. The EARHVD recommends 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 initiate legal proceedings with a view to protect them and promote their rights.



Lisbon, 5th December 2018

Representative of the General Secretariat of the Ministry of Internal Affairs

Dr. António Castanho ((Rapporteur, Permanent Member)

Representative of the Ministry of Justice

Dr.^a Maria Cristina Mendonça (Permanent Member)

Representative of the Ministry of Health

Dr. Vasco Prazeres (Permanent Member)

Representative of the 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 territorially competent Security Force (PSP)

Commissioner Jorge Martins (Non-permanent Member)

Approval of the Dossier Report No. 1/2018-AC

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

- 1.** The review of homicides in a domestic violence context aims to contribute to improving the performance of the entities/services involved in the different aspects and levels of intervention in the domestic violence phenomenon, particularly for the implementation of new preventive methodologies.
- 2.** In this specific case, the investigation and analysis focused on the judiciary, police and health services. The review procedure defined in the norms that regulate the activity of the EARHVD was respected.
- 3.** The conclusions are based on the facts. The report is objective, reasoned and clearly written. The conclusions are based on the established facts. In particular, it is sufficiently documented and demonstrated in the report's conclusion that "the victim was proactive in seeking protection" and that, "facing the escalating aggressiveness and fearing for her safety and that of her daughter, she sought help for more than



3 months, specifically with the police forces and the justice system, without any with no result".

4. The recommendations presented are relevant and timely, in light of the facts established and the shortcomings evidenced in the approach to the case.

For all the above reasons, I approve the Report.

The Report should be sent to all entities permanently represented in the EARHVD, as well as to the National Director of the PSP.

The Report should also be sent to:

- *Parliament Subcommittee for Equality and Non-Discrimination*
- *Portuguese Judicial High Council*
- *Ombudsman's Office*
- *Commission for Citizenship and Gender Equality*
- *General Command of the National Republican Guard*
- *Deputy Secretary of Health*
- *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 of Internal Administration*
- *Inspectorate-General for Health Activities*
- *Directorate-General for Reintegration and Prison Services*
- *Centre for Judicial Studies*

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

12th December 2018

Rui do Carmo
Coordinator of EARHVD

