



Analysis of the Criminal Offense of Suicide Incitement

Ervin Karamuço¹

Alban Kalaja²

¹Ass Prof. Dr. Faculty of Law, Criminal Department,
University of Tirana,
Tirana, Albania

²MSc, Albanian National Bureau of Investigation,
Tirana, Albania

Received: 19 February 2024 / Accepted: 15 March 2024 / Published: 23 March 2024
© 2024 Ervin Karamuço and Alban Kalaja.

Doi: 10.56345/ijrdv11n129

Abstract

Suicide is an individual act that aims to interrupt the continuation of the person's vital activity, mainly driven by psychological circumstances. Suicide is considered as the final act that gives salvation to the solution of internal or interpersonal problems and conflicts, which are evaluated by a deviated subjective situation, in which the person thinks that there is no other solution for his fate. Suicides have a negative impact on society, because the loss of a human being's life not only creates wounds and other spiritual dramas, but creates a psychosis of despair and uncertainty in the social circle and the community as a whole. On the other hand, suicide poses a very big risk, because it gives an unacceptable model for society, appearing as a finding or an easy way to deal with personal weaknesses to face life's challenges. In Albania, there is an increasing number of suicide acts, where from the criminal point of view, the law enforcement bodies have increased attention to the possibility of the involvement of other persons, whose actions or inactions directly affect the self-sacrifice of the victims. In this context, the detection of the criminal offense of causing suicide takes an important weight in the prevention of these degrading and victimizing acts, reducing as much as possible the development of similar and complex cases of suicide. However, proving the effects of systematic psychological or physical violence that has led to suicides remains an extreme difficulty for investigative bodies, which requires not only complex investigative methods, but also a more accurate determination of the content of the concrete criminal offense.

Keywords: suicide, criminal offense, systematic violence, maltreatment

1. Introduction

1.1 Analysis of the criminal offense "Causing suicide incitement"

Based on Article 99 of the Criminal Code, causing suicide incitement or attempted suicide of a person, as a result of systematic ill-treatment or other systematic behavior that seriously affects dignity, committed by the person who depends on him or by the person with whom he has a family or cohabitation relationship, shall be sentenced to imprisonment from three to seven years. The object of this criminal offense is the life of the person, which is specially protected by the criminal legislation. In the Albanian criminal legislation, a great deal of importance has been given to the protection of the person's life from socially dangerous actions.

From the objective side, the above criminal offense is committed by the active actions of the perpetrator, through systematic ill treatment, systematic violence or other systematic behaviors that seriously affect dignity, committed by the

person who is dependent on him or by the person with whom he has family relationship or cohabitation. In these cases, the legal literature requires that there must always be a causal connection between the active actions of the author and the resulting consequence, the loss of the victim's life, as a result of suicide. If there was no causal connection between the author's actions and the consequence that will come, the person does not have criminal responsibility¹.

According to the commentary on the criminal law, the causal connection is an element of the objective side of the criminal offense. It is treated as an objective connection independent of human will, between the action or inaction and the harmful consequence. In every phenomenon there is a cause and an effect, and the connection between them is called a causal connection. Without a necessary and direct causal connection, there can be no criminal liability, because the person's death can also come from other causes, which are not related to the author's actions.

The causal relationship is an objective category, which is reflected in the human mind as to how it will develop. But the causal connection cannot be separated from the subjective side, because the person who commits an action or inaction with will and awareness, understands that this action or inaction causes the harmful consequence. This action or omission must be the determining cause for the occurrence of the consequence. Consequences of the criminal offense mean the changes that occur due to the illegal action of the person (author) and that affect or harm the legal relations specially protected by the criminal legislation.

The subject of the above criminal offense is any person who has reached the age of criminal responsibility (14 years old) and is responsible². The subject of this criminal offense is not every person, but precisely the person who depends on the victim or the person with whom the victim has a family or cohabitation relationship. From the subjective side, this criminal offense is always committed intentionally, in the form of direct intent. The perpetrator undertakes and carries out these actions, with the aim of creating such a psychological state in the victim, which seriously damages her dignity, a psychological state that leads the victim to undertake actions that lead to suicide³.

1.2 Criminal case study and detailed analysis

On 01.01.2023, at 4:30 p.m., the Local Police Department X was notified by the services of the regional hospital that citizen B was suspected of having consumed the poisonous substance phostoxin, who, although she received medical help, could not live. The Local Police Directorate has set up the investigative group, which has carried out the first investigative actions under the direction of the Prosecutor's Office and has referred the procedural materials to the Prosecutor's Office.

Based on the administered data, in December 2022, citizen B reported that a fake address with her name was opened on social networks (Tik-Tok). For the report made in December 2022, the Police has carried out all investigative actions and has referred the materials to the Prosecutor's Office, where the case is still under investigation. After this report, there was no report or other concern about this case from citizen B.

On 20.01.2023, the Local Police Department arrested the citizen Xh, the husband of the deceased B. From the in-depth investigations, it was found that Xh has psychologically abused his wife continuously. The investigation showed that citizen Xh threatened to kill his wife with a cutting tool (knife) in the presence of one of the children. But for this case, citizen B did not file a police report⁴.

Regarding the investigation of this event, several questions arise:

- What pushed victim B to commit suicide by drinking phostoxin?
- What was the psychological condition of victim B on the day of the event?
- In this case, are we dealing with a criminal offense?
- If so, what is the criminal offense that has been served?
- In this particular case, do the elements of the criminal offense "Causing suicide" exist?
- What actions of a criminal nature did citizen X-husband of victim B commit?
- How have these actions affected the psychological state of victim B?
- Are the actions of citizen X decisive in the victim's decision to commit suicide?
- Can it be considered "systematic" the psychological or physical violence that citizen X has exercised against his wife B?
- How can the systematic violence of citizen X against his wife be proven with facts and legal evidence?

¹ Penal Code Commentary Ismet Elezi 2017

² Penal Code Article 12

³ Penal Code Article 99

⁴ Investigative Practice of the State Police (Confidential)

- How can it be proven with facts and legal evidence that the actions of citizen X (violence, mistreatment, etc.) have pushed the victim to commit suicide?
- What pushed victim B to commit suicide by drinking phostoxin?

The investigation shows that there are two factors that led the victim to the decision to commit suicide:

- Denigration on social networks;
- Constant conflicts in the couple and physical and psychological violence perpetrated by the spouse.

From the investigative actions carried out in the present case, based on the statements of the victim's children, it results that citizen Xh has continuously exercised psychological violence against his wife. In one case, he threatened to kill his wife with a cutting tool (knife), in the presence of one of the children. But in all cases, victim B did not file a police report.

It is very important that the questioning of the minor children of the victim by the judicial police officer is done in the presence of a psychologist, a social worker and a defender for minors. This is in order to support the minor emotionally and to provide him with security.

The minors' explanations would help investigators learn clues about spousal arguments and conflicts; what actions and violent behavior did citizen X show towards the victim; was the violence of citizen X against his wife systematic; how did this violence affect the psychological state of the victim, etc...

What was the psychological condition of victim B on the day of the incident?

In order to understand the psychological state of victim B on the day of the event, the statements of her children who were present in the apartment, what happened in the apartment the day before the event and on the day of the event, are very important; have there been arguments between the spouses, has there been violence (physical or psychological) from the spouse during the last days; Has the victim shown signs that he decided to poison himself?

In this case, are we dealing with a criminal offense?

Analyzing all investigative actions: examination of the scene, examination of the corpse, statements of the victim's children, statements of the husband (suspect), statements of the medical staff of the Regional Hospital, related to the case; conclusion of the forensic examination act, the investigators will be able to conclude whether we are dealing with "suicide" or "suicide cause" (suicide postponement).

If so, what is the criminal offense that has been served?

In this particular case, from the entirety of the investigative actions, there are doubts that the criminal offense of "causing suicide" has been committed, provided by Article 99 of the Criminal Code.

In this particular case, do the elements of the criminal offense "Causing suicide" exist?

Based on the circumstances of the fact and the conclusion from the entirety of the investigative actions, there are reasonable doubts that there are elements of the criminal offense "Causing suicide", provided for by Article 99 of the Criminal Code.

What actions of a criminal nature did citizen X-husband of victim B commit?

From the investigative actions carried out and the evidence administered, it appears that citizen Xh has exercised psychological and physical violence against his wife (the victim). In one case, citizen Xh threatened to kill his wife with a cutting tool (knife), in the presence of one of the children.

How have these actions affected the psychological state of victim B?

The actions of citizen Xh, exerting physical and psychological violence against his wife, have influenced the worsening of the psychological condition of the victim, who, not finding a solution made the decision to commit suicide.

Are the actions of citizen X decisive in the victim's decision to commit suicide?

This question must be answered by a psychiatric forensic expert, to whom the statements of the victim's children, the perpetrator's statements, the statements of family members (of the victim and the perpetrator), medical records, etc. must be made available.

I emphasize that the physical and psychological violence of citizen Xh has influenced the worsening of the victim's psychological condition. Violence (physical or psychological) and denigration⁵,

2. Challenges of Investigating the Criminal Offense of Suicide

Investigating suicidality presents unique and complex challenges for investigators, which require a detailed and sensitive approach. These challenges can be categorized as follows:

⁵ *Criminal Prosecution Proceedings before the Court of First Instance (Confidential in the protection of personal data)*

Lack of clear evidence

- In many cases, there is a lack of direct evidence linking one person to pushing another to commit suicide.
- Evidence is often based on verbal or written communications that can be interpreted in different ways.

Legal complications

- Determining legal responsibility for suicide is complicated. There is a need to understand where an individual's moral and legal responsibility begins and ends.
- Laws vary significantly from one jurisdiction to another, making their interpretation and application complicated.

Psychological challenges

- Knowing and assessing the mental health of the victim and the suspect are essential to understand the context of the action.
- The emotional impact on investigators and case participants can be severe.

Difficulty interacting with family and friends

- Interviews with family members and friends of the victim or suspect require a sensitive and ethical approach due to the sensitive nature of the case.

Technology and social media

- Analysis of communications through technology and social media is essential, but also complicated due to privacy and interpretation of messages.

Public and media pressure

- Cases of delayed suicide can receive a lot of media and public attention, increasing the pressure on investigators to find quick and clear answers.

Training and expertise

- Investigators need special training and knowledge to handle cases of suicidal ideation, including knowledge about mental health and specific investigative methods.
- Facing these challenges requires a combination of professional skills and a sensitive approach, focused on the rights and well-being of all parties involved.

3. Conclusions and Recommendations

Main conclusions:

- Investigating suicidal ideation is a complex and challenging process that requires a sensitive and detailed approach, requiring in-depth legal and mental health knowledge.
- The lack of direct evidence and the subjective nature of the communication make interpretation difficult.
- The influence of factors such as mental health, personal relationships and social pressure are important in these cases.
- Identifying a person's motives and impact on the victim is challenging, especially in the absence of clear and direct evidence.
- The importance of interdisciplinary interaction:
- Collaboration between investigators, mental health experts, and other professionals is vital to a thorough understanding of cases.
- The impact of social media and technology. Social media and technology play an increasingly important role in these cases, requiring new investigative methodologies.

Recommendations for investigators:

- Investigators should be trained in various aspects of mental health and learn to interpret communication on social media and other digital platforms.
- In-depth training in psychological knowledge and mental health crime investigation techniques.
- The use of advanced digital methods for the analysis of electronic communications.
- Close collaboration with mental health experts and other relevant institutions.

Recommendations for legal policies:

- Updating legislation to reflect changes in society and technology, particularly in relation to the role of social media.
- Adapting and improving laws to address the specific challenges of investigating delayed suicide.

- Increasing public awareness. Campaign to raise awareness of the warning signs of suicide and the importance of immediate intervention.
- Increase awareness and training for law enforcement officers about mental health issues.
- Intervention and prevention of suicide cases.
- Public awareness and education programs to recognize and address the warning signs of suicide.
- Development of investigative resources and protocols.
- Creation and implementation of standardized investigation protocols for cases of suicide.

References

Constitution of the Republic of Albania;
Criminal Code of the Republic of Albania
Law No. 7905 dated 21.3.1995 "Criminal Procedure Code";
Laws No. 8813, dated 13.06.2002 "On some additions and changes to the Code of Criminal Procedure";
Law no. 144/2013, dated 2.5.2013, "On some additions and changes to the Code of Criminal Procedure";
Commentary on the Criminal Code of RSH, author Prof.Dr. Ismet Elezi. Tirana 2017.
Investigative Practice of the State Police (Confidential)
Criminal Prosecution Proceedings before the Court of First Instance (Confidential in the protection of personal data)