

Suicide and the crime of determining or facilitating the suicide. A social and legal perspective

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Abstract

This article gives a brief overview of the suicide phenomenon, starting from a theoretical approach and a worldwide statistical analysis to an analysis of this phenomenon in Romania. In the context of the analysis of the suicide phenomenon in our country, emphasis is also placed on the legislative part, taking into account the fact that in the Romanian Criminal Code we find the crime of "determining or facilitating the suicide".

Keywords: *Suicide; theoretical analysis; statistical analysis; Romania; criminal law; the crime of "determining or facilitating the suicide".*

1. A theoretical analysis of the phenomenon of suicide

Suicide is viewed differently by people. In a way it is seen by sociologists, in another way by psychologists, lawyers, religious people etc.

For some, suicide is a free manifestation, a liberation from the problems of life, while for others it is something inconceivable, to be condemned as an extreme gesture.

Suicide is a awful phenomenon with tragic effects for individuals, families and communities. This behavior "can be the extreme form of manifestation of mental health problems in everyday life and the most violent form of self-destructive behavior. However, the emotional and behavioral imbalances that influence the predisposition to suicide are preventable" (Dafinoiu and Boncu 2014: pp. 120-132).

According to Oxford Learner's Dictionary, the suicide is "the act of killing yourself deliberately" (Oxford Learner's Dictionary 2021).

Suicide is defined by National Institute of Mental Health, "as death caused by self-directed injurious behavior with intent to die as a result of the behavior" (National Institute of Mental Health. U.S. Department of Health and Human Services 2021).

Suicide (from the Latin "sui" = self and "cidiun" = murderous) means "any case of death that results directly or indirectly from a positive or negative act, committed by the victim himself, knowing that it will produce that result" (Durkheim 1998: p. 12).

The first author to write about suicide was the philosopher Thomas Browne, in 1642, in his work *Religio medici* (Iabub and Nacu 2017: pp. 45-51). It is believed that he created the term, using the Latin words "sui" and "caedere", hence "self-killing / killing" (Filipschi, 2015: p. 8). After 1650, the term "suicide" spread to the English language

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through the work of lexicographer Thomas Blount and the publisher Walter Charleston (Minos 1999: p. 47).

“Suicide is the act of committing suicide and its result; suppression of one's own life. A self-muderer is a person who has taken (or tried to take) his or her own life” (Romanian Academy, Iorgu Iordan Institute of Linguistics 1998: p. 993).

Another definition given to suicide is: “Suicide is an act by which an individual seeks to destroy himself, with the more or less genuine intention of losing his life being more or less aware of his motives” (Goros 1998 Apud. Butoi, Iftenie, Borui and Butoi, 2002: p. 17).

By reporting a certain number of cases of suicide in a given population, a measure of the intensity of the suicide phenomenon at the social level is obtained. Emile Durkheim, in his book “La Suicide”, highlights four types of suicide - anomic, selfish, altruistic and fatalistic. Durkheim used the term *anomie* to describe this temporary condition of social deregulation, and *anomic suicide* to describe the resulting type of self-inflicted death; but in one sphere of life, “anomie is not a temporary disruption but rather a chronic state” (Durkheim 1998). “Durkheim said that there is a relation between a society's suicide rate and the way it performs this important regulative function. Industrial and financial crises, for example, increase the suicide rate, a fact commonly attributed to the decline of economic well-being these crises produce. But the same increase in the suicide rate, Durkheim observed, is produced by crisis resulting in economic prosperity; “Every disturbance of equilibrium,” he insisted, “even though it achieved greater comfort and a heightening of general vitality, is an impulse to voluntary death” (Jones 1986). We can find here, in this “risk societies” (Grignoli and Serban 2018), similar push factors, like those ones in the radicalization process: “poor living conditions, restrictions on health, social work and education, tense relationships with other groups, long periods of isolation, poor policies in key areas” (Ilie Goga 2019: p. 41) and even high criminality (Ilie 2014). “The anomic suicide is favored by anomic situations, characterized by the disintegration of normative and value structures, by the unclear definition of individual goals, by conflict between means and purposes, etc. In situations where the dominant value orientations are individualistic, and low interactions between individual and group, selfish suicides are favored. In altruistic suicide, the motivation is the desire to do good to others (Example: acts of heroism). Fatalistic suicide, occurs as a reaction to overly restrictive norms that block any individual perspective (Example: slave suicide). The phenomenon of suicide was related to the residential community (more intense in cities than in villages), religious beliefs (more intense in Protestants than in Catholics, in free thinkers than in believers), social mobility (favored by descending mobility), stability of family life (suicide more common in divorced women than in married ones), imitation or social contagion, age (suicide increases in frequency with age), sex (suicide more common in men than women, but as a suicide attempt being more frequent in women), social category, period of economic crisis, war etc.(Sandu 1998: p. 543).

World Health Organization recognizes suicide as a public health priority. The first WHO World Suicide Report “Preventing suicide: a global imperative”, was published in 2014 and aimed to increase the awareness of the public health significance of suicide.

According to World Health Organization, worldwide, “more than 700.000 people die due to suicide every year”. In 2019, suicide was the “fourth leading cause of death among 15-29 year-olds”. Also, in 2019, over 77% of global suicides occurred in low- and middle-income countries (World Health Organization, 2021).

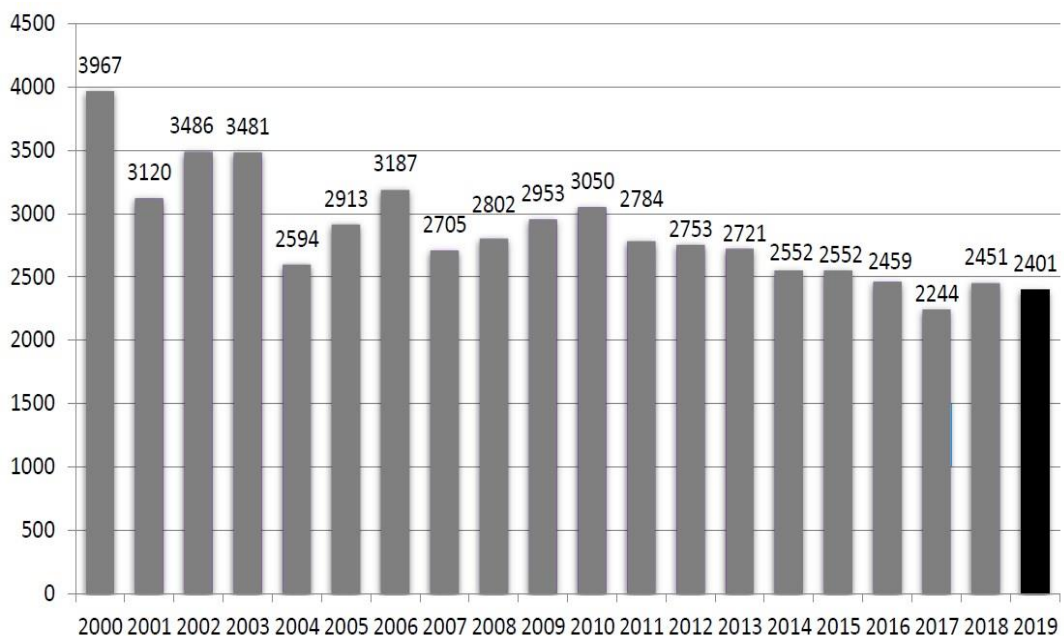
2. A statistical and legal analysis of the suicidal phenomenon in Romania

According to the “Report on the activity of the forensic network in 2019”, a report issued in 2020, in Romania, in 2019, a number of 24,766 autopsies were performed. Of the total number of forensic autopsies, 40% were violent deaths and 59% were nonviolent deaths. We note that 25% of all violent deaths are suicides, along with other causes such as road accidents with 21%, domestic and agricultural accidents 16%, homicides 3%, infants homicides 0.16%, accidents at work 2%, train accidents 2%, other traffic accidents 0.13%, accidental deaths in other circumstances 31% (“Mina Minovici” Institute of Forensic Medicine 2020, p. 5).

In 2019, 2401 suicides were registered in Romania, the majority of suicides being registered among men, 84%, as it happened in previous years.

Analyzing the dynamics of suicides in the last 5 years (2015-2019), we notice that their number is relatively constant, ranging between 2,552 cases and 2244 cases, with an average of 2421 cases, slightly decreasing compared to the last 10 years (2010-2019), when they varied from 3050 to 2244, and the average was 2597 cases compared to the last 20 years (2000-2019), when we find a maximum of 3967 cases in 2000, with an average of 2859 cases.

Figure no. 1. The evolution of the number of suicides in Romania in the period 2000-2019



Source: “Mina Minovici” Institute of Forensic Medicine, (2020) *Report on the activity of the forensic network in 2019*, Bucharest, p. 8 [online]. Available: <https://www.inml-mm.ro/?pg=pdf/dds2019> [accessed 14 June 2021].

In 2019, the most commonly used suicide methods were: hanging 66%, voluntary intoxication and burns 8%, precipitation (throwing from a height or in front of the train)

and submersion 6%, self-inflicted wounds by cutting object 2%, electrocution 1%, other methods 3% ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 9).

An analysis made over the last 13 years of the suicidal methods used in our country shows a constant preference for hanging, followed by precipitation and intoxication ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 9).

In 2019, in Bucharest, the capital of Romania, a number of 297 cases were registered, being the highest number of cases registered since 2002, when 342 cases were reported ("Mina Minovici" Institute of Forensic Medicine, 2020, p. 8)

In Romania, suicide or the attempt of suicide are not regulated in criminal law, but we find regulated in Article 191 of the Criminal Code a crime that includes aspects related to suicide, namely "determination or facilitation of suicide", which is a version of homicide, it is also similar to homicide offenses and consists of relationships related to the right to life. However, there are states, such as India, that even today criminalize the attempt of a person to commit suicide. In Romania, according to article 191, paragraph 1, "The act of determining or facilitating the suicide of a person, if the suicide took place, is punishable by imprisonment from 3 to 7 years." According to Article 2, "when the act described in paragraph 1, Article 191 of the Criminal Code, was committed against a minor aged between 13 and 18 years or against a person with diminished judgment, the penalty is imprisonment from 5 to 10 years". Moreover, "the determination or facilitation of suicide, committed against a minor under the age of 13 or against a person who could not realize the consequences of his actions or inactions or could not control them, if suicide has taken place, is punishable by imprisonment from 10 to 20 years and a ban on exercising certain rights" (Criminal Code, art. 191, para. 3). A special situation is mentioned in paragraph 4 of Article 191, namely "if the acts of determination or facilitation of suicide presented in paragraphs 1-3, Article 191 of the Criminal Code, were followed by an attempted suicide, the special limits of punishment are reduced by half."

Determination of suicide can be accomplished not only by exhortation or deception (for example, by tendentious exaggeration of dangers, troubles, conflicts), but also by acts of torture, by being subjected to repeated torture, scandals, and beatings, to bring the victim into despair, culminating in suicide or suicide attempt. For example, the defendant had a totally inappropriate behavior towards his wife: one day he hit her and forced her to sleep overnight, in the cold, in an unarranged room, without windows and without a bed, in another day he hit her and threatened to kill her, and the next day, after other threats, he forbade her to sleep in the house. Desperate for her husband's behavior, the victim ingested a soda. Although he noticed his wife's serious condition, the defendant did not give her any help and did not request the doctor's intervention, so she died. Such acts, which go far beyond the limits of some human relations, were considered to be the elements of the crime of suicide (Supreme Court. Criminal Section, 1977).

Facilitating the suicide of a person involves any action to support the passive subject in the realization of his decision to commit suicide.

The facilitation may consist in procuring or preparing the necessary means, in giving advice, in removing material obstacles (for example, talking to the supervisor placed by the family), in fulfilling some wishes or conditions set by the victim, etc. Facilitation is not to be confused with cooperation in suicide. In this case (for example: unloading a gunfire in the suicide that was superficially shot, to ensure the result, opening the veins with a blade, pouring the rest of the unripe poison on the neck) the act will be a murder offense.

The special legal object of the crime of determination or the facilitation of suicide is formed by the life of the human person (Diaconescu 2007: p. 76) and the social relations regarding the life of the person (Brînza and Stati 2015, p. 146).

It should be noted that through this crime the perpetrator threatens not only the life of a person, the harm can be caused to other social relationships, which suggests the presence of a multiple special legal object (Camarova 2020, pp. 172-175).

Suicide is a complex issue and therefore a national policy is needed to reduce the suicide rate, and suicide prevention efforts require coordination and collaboration between several areas, such as education, justice, the medical sector and the media.

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