

General Features Specific to Crimes against the Person

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Abstract

The economic and political development of society is always associated with the worsening of relations between its members. An extreme manifestation of the antisocial orientation of the actions of individual members of society is criminal activity. Criminality not only undermines the authority of state power, but also represents a threat both to the economic stability of society and to every citizen, that is why crimes against the person open the Special Part of the Criminal Code of Romania. Unlike previous criminal laws, this arrangement of the chapter indicates the priority of protecting the person, the group of crimes against the person being united by a single direct object, human life. The relevance of the subject of this paper lies in the fact that it highlights the specific general features of crimes against the person, in order to qualify these prejudicial acts criminalized in the articles of Title I of the Special Part - Criminal Code of Romania.

Keywords: crimes against the person, object of crimes, subject of crimes, objective side, subjective side, sanctions.

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1. Introduction

"The laws of all times have protected the human person, sanctioning those who threatened life, bodily integrity, health, freedom and human dignity. The human problem has always been the focus not only of lawyers, but also of philosophers, economists, politicians, artists, etc. However, man and his rights have never concerned mankind more than in our days"².

The new Criminal Code includes Offenses against the person in Title I of the Special Part, compared to the previous Criminal Code, which regulated in this title crimes against state security, the legislator applying the French and Spanish solution, giving priority to the protection of the person, as this social value must be protected in main mode.

"The crime is the commission of the act of conduct prohibited by the criminal law"³. In another sense, the concept of crime designates the deed described⁴, provided by the criminal law with its component elements and which defines a certain crime"⁵.

2. The object of crimes against the person

The doctrine of the object of the crime in the science of criminal law is one of its main, basic and most complex sections⁶.

In the criminal law literature, the subjective rights of a person⁷, legal norms in their real existence, values as a condition for the healthy existence of society⁸, vital interests protected by legal norms, legal benefits and other similar phenomena are called the object of a crime.

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² Gh. Nistoreanu, Al. Boroii, I. Molnar, V. Dobrinioiu, I. Pascu, V. Lazăr, *Drept penal. Partea specială. Ediție revăzută și adăugită cu dispozițiile Legii nr. 140/1996 pentru modificarea și completarea Codului penal*. Ed. Europa Nova, Bucharest, 1997, p. 89.

³ C. Bulai, *Manual de drept penal. Partea generală*, Ed. All, Bucharest, 1997, p. 146; C. Bulai, B.-N. Bulai, *Manual de drept penal. Partea generală*, Ed. Universul Juridic, Bucharest, 2007, p. 145, *apud* Gh. Ivan, M.-C. Ivan, *Drept penal. Partea generală conform noului Cod penal*, Ed. C. H. Beck, Bucharest, 2013, p. 55.

⁴ G. Antoniu, *Reflecții asupra conceptului de infracțiune*, in „S.C.J.” no. 2/1980, p. 143, *apud* Gh. Ivan, M.-C. Ivan, *op. cit.*, 2013, p. 55.

⁵ Gh. Ivan, *Drept penal. Partea generală*, Ed. C. H. Beck, Bucharest, 2008, p. 40. For details, see G. Antoniu, *Unele reflecții asupra conceptului de incriminare și conceptului de infracțiune*, in „Revista de Drept Penal” no. 4/2010, p. 9-27 (according to the author, by incrimination we understand the deed described, and by crime we understand the concrete deed whose features correspond to those of the description in the incrimination norm), *apud* Gh. Ivan, M.-C. Ivan, *op. cit.*, 2013, p. 55.

⁶ See Nadiia Shulzhenko, Snizhana Romashkin, *Types of individual criminal responsibility according to article 25 (3) of Rome Statute*, in „Juridical Tribune - Tribuna Juridica”, Volume 11, Issue 1, March 2021, pp. 72-80.

⁷ A. Feuerbach, *Lehrbuch des gemeinen in Dentscheand gültigen Peinlichen Rechts*, Lissen, 1847. p. 45.

⁸ K. Binding, *Die Normen und ihre Ubertretung*, Leipzig, 1922. B.1. p. 329.

In fact, the object of the crime is precisely social relations, that is, crime always aims to change social relations, and not to cause harm to another. Any crime directly, and not indirectly, violates social relations⁹. Otherwise, we must mention the presence of another invasion object that is not a public relation. Therefore, the object of crime is formed by the social relations that protect human life.

"The criminal doctrine is unanimous in considering the object of the crime to be the social value and the social relationship formed around and because of this value, which are injured, harmed or endangered by committing the socially dangerous act.¹⁰ This is the legal object of the crime and it differs from the category or group of crimes provided for in the Special Part of the Criminal Code.

It should be specified that there are no crimes without a legal object and, depending on this, the passive subject of the crime can be determined, who is the owner of the damaged value"¹¹.

In order to analyze the object of this category of crimes, we must distinguish between the generic legal object of crimes against the person, between the legal object characteristic of each of the crimes that make up Title I and the material object.

Offenses against the person have as their *generic legal object* the social relations related to the defense of the person viewed under the totality of his attributes: life, bodily integrity, sexual inviolability and freedom.

"These crimes present a high generic degree of social danger, determined, on the one hand, by the importance of social values that constitute the object of criminal protection and by the serious consequences that the commission of these crimes can have for the community, and on the other hand, by the fact that crimes against the person are, as a rule, carried out by using violent means or procedures and often have a higher frequency in relation to other categories of crimes".¹²

The *special legal object* of the crimes contained in Title I of the Special Part is made up of the social relations regarding each of the fundamental characteristics of the person, taken separately: life, bodily integrity, sexual inviolability and freedom and "considered as his absolute rights, opposed to all, *erga omnes*".¹³

The rights listed above are called non-patrimonial personal rights, inseparable and closely related to the human person, which guarantee and protect the human personality, either from a physical point of view, as well as the rights of the person. Moreover, the literature in the field recognizes that "the sphere of criminal protection includes those absolute rights, intimately related to the human person, also called personality rights, which are guaranteed by the relations established by the state to defend the various fundamental attributes of man".¹⁴

The *material object* is represented by the victim's body when values such as: life, bodily integrity, health, physical freedom or sexual life are targeted by the action or inaction prohibited by law. It does not matter if that body belongs to a young or old person, if that person is, or not, in full physical or mental faculties; it matters that the person in question is alive at the time of the crime, and that the perpetrator acts on his body.

3. Subjects of crimes

The subject of the crime is determined in the theory of criminal law as a natural, healthy person who has reached a certain age.

The *active subject and criminal participation*. "According to the provisions of art. 174 C.

⁹ Grant Lamond, *What is a Crime?*, „Oxford Journal of Legal Studies”, Vol. 27, No. 4 (2007), pp. 609–632.

¹⁰ See V. Drăghici, *Obiectul juridic al infracțiunii*, Ed. Lumina Lex, Bucharest, 2004, p. 25; C. Bulai, *Manual de drept penal. Partea generală*, Ed. All, Bucharest, 1997, p. 75, *apud* Al. Boroi, *Drept penal. Partea Generală. Conform Noului Cod penal*, 2nd ed., Ed. C. H. Beck, 2014, p. 164.

¹¹ Al. Boroi, *op. cit.*, 2014, p. 164.

¹² V. Dongoroz and the collective, *Explicații teoretice ale Codului penal român, vol. III. Partea Specială*, Romanian Academy Publishing House, Bucharest, 1971, p. 171, *apud* Gh. Nistoreanu, A. Boroi, I. Molnar, V. Dobrinou, I. Pascu, V. Lazăr, *op. cit.*, 1997, p. 92.

¹³ C. Bulai, *Manual de drept penal*, Ed. All Beck, Bucharest, 1998, p. 86, *apud*, Al. Boroi, *op. cit.*, 2014, p. 22.

¹⁴ A. Boroi, *Pruncuciderea șiuciderea din culpă*, Publishing House of the Ministry of the Interior, 1992, p. 12, *apud* Gh. Nistoreanu, A. Boroi, I. Molnar, V. Dobrinou, I. Pascu, V. Lazăr, *op. cit.*, 1997, p. 93.

Pen., has the capacity of an active subject of the crime or a criminal, the person who commits a consummated crime or a punishable attempt and in which he participates as an author, instigator or accomplice".¹⁵

In order to have the status of an active subject of the crime, the natural person must meet certain conditions: be over 16 years old (according to art. 113 NCP, the minor who has not reached the age of 14 is not the subject of the crime and the minor whose age is between 14-16 years has the quality of the subject of the crime, only if it is proven that he committed the act with discretion); to be responsible and decide freely on the commission of the crime.

"The name of the active subject of the crime (criminal) characterizes his illegal attitude, which defeats the provisions of the law and social discipline through his dangerous conduct, which puts him in irreducible conflict with society, for which he is subject to criminal liability".¹⁶

In the case of crimes against the person, the immediate active subject (perpetrator) of the crimes can be, as a rule, any person, because the law does not require that he or she possess a special quality, but there may be exceptions, such as: in the case of family violence (art. 199 NCP), where "the active subject and the passive subject are qualified, they must be members of the same family"¹⁷, or in the crime of killing or harming the newborn committed by the mother (art. 200 NCP), crime for whose active subject can only be the mother of the newborn.

For some crimes against the person, the quality of the active subject may have the consequence of classifying the act as an aggravated version of the crime, for example: rape [art. 218 NCP, para. (3)] or sexual corruption of minors [art. 221 NCP, para. (2)] fall into the aggravated forms in the situation where the perpetrator has the capacity of guardian, attending physician, supervisor, etc. Also, the crime of manslaughter [art. 192 NCP, paragraph (2)] falls under the aggravated forms if, when the crime was committed, the perpetrator was practicing a profession or trade or for carrying out a certain activity.

As a rule, criminal participation can be realized both in the form of own participation, or through improper participation, with the exception of unintentional crimes. At the same time, only some forms of participation are possible, such as the case of co-authorship, which is not possible for some crimes against the person, for example in the case of crimes with a single subject (killing or harming the newborn committed by the mother).

Co-authorship "is the situation in which an act provided for by the criminal law was committed directly by two or more persons who have the capacity of authors, therefore co-authors of that act. Therefore, for the existence of co-authorship, it must be established that at least two participants have executed acts of execution¹⁸ or have directly committed the same deed. This notion also results from the new legal provisions [art. 46 paragraph (2) NCP]".¹⁹

The passive subject or "victim" is the natural person whose life, physical integrity, health, freedom or dignity was harmed by committing the incriminated acts. Sometimes the victim also has a role in the production of the criminal result, but studying the role of the victim in triggering the illegal act is not a concern of criminal law, but belongs to victimology.²⁰

So, as a rule, the passive subject can be any person. When the criminal action results in a plurality of victims, it conditions the existence of a contest made up of as many crimes, as in the case of qualified murder committed against two or more persons [art. 189, para. (f) NCP], or for manslaughter if the act committed caused the death of two or more people [art. 192, para. (3) NCP].

However, there are situations when the passive subject is circumstantial. For example, in the case of particularly serious murder, art. 189, para. (f) NCP, the victim must be a pregnant woman or

¹⁵ Al. Boroi, *op. cit.*, 2014, p. 165.

¹⁶ C. Bulai, *op. cit.*, Al. Boroi, *op. cit.*, 2014, p. 165.

¹⁷ Gh. Ivan, M-C Ivan, *op. cit.*, p. 7.

¹⁸ Regarding the notion of acts of execution of the incriminated act, in the doctrine and in the judicial practice, various opinions have been expressed (See, in detail, Gh. Ivan, *Criteriul distincției între actele de coautorat și cele de complicitate*, in „Dreptul” no. 12/1999, p. 125-138), *apud*, Gh. Ivan, M.-C. Ivan, *op. cit.*, p. 80.

¹⁹ Gh. Ivan, M.-C. Ivan, *op. cit.*, p. 55.

²⁰ T. Bogdan, I. Sântea, *Analiza psihosocială a victimei. Rolul ei în procesul judiciar*, Editorial service of the Ministry of the Interior, 1988, p. 153, *apud* Gh. Nistoreanu, A. Boroi, I. Molnar, V. Dobrinou, I. Pascu, V. Lazăr, *op. cit.*, p. 94.

unlawful deprivation of liberty, art. 205, para. (b) NCP, when the passive subject must be a minor. The legislator introduces special characteristics of the victim, depending on their presence, the criminal responsibility is differentiated, thus, a newborn or a minor is defined as a special victim in the law.

"For some crimes against the person, there is also a premised situation consisting of the existence of a reality prior to the commission of the criminal act and on the basis of which the illegal action is carried out, such as, in the case of the crimes of assault, bodily harm, blows or injuries causing death, the existence of a living person or the existence of a state of pregnancy of the victim, in the case of termination of pregnancy or the existence of a recent birth, in the case of infanticide, the existence of a domicile, in the case of domestic violence, the existence of correspondence, conversations or communications, in the case of violation of the secrecy of correspondence and other situations that will be shown in the analysis of each crime".²¹

4. The objective side

When analyzing the objective side, we are distracted from the subjective moments (although they are also necessary for the recognition of a criminal act, but we take them into account in the analysis of the subjective side).

The objective side of the crime is an external act of criminal behavior that occurs in a specific place, time and environment.

"The objective side of the crime is understood as the activity of the natural person who, through its dangerous consequences, harms or endangers certain social relations protected by the rules of criminal law. In other words, this activity carried out by the person of the criminal is an external manifestation, that is, a communication of physical energy that produces a change in the external world".²²

The initial stage of the development of a criminal invasion of the legally protected object is an action or inaction - the main features of the objective side. For the material components of crimes, socially dangerous consequences are one of the main features. The process of developing the crime from a socially dangerous action (inaction) to the occurrence of harmful consequences forms a causal relationship between the act and the criminal result, which is also a mandatory sign of the objective side in the material components of the crime.

The material element of crimes against the person is usually committed by action, being of different types: killing, hitting, threatening, sexual intercourse, etc. Some crimes can only be committed by action, such as: murder, aggravated murder, beatings or other violence, rape, etc.; and others are achieved only through inaction, for example in the case of the crime of leaving a person in distress without help, manslaughter, killing or harming the newborn by the mother, etc.

"For the existence of the crime, in the case of some crimes, the fulfillment of some essential requirements is required, such as, for example, homicide at the request of the victim, the killing or injury of the newborn by the hand, etc."²³

Offenses against the person in all forms produce an *immediate consequence*, this consists of an impact on the fundamental attributes of the person, protected by the Criminal Code. Depending on the existence of immediate follow-up, resulting offenses differ from those of simple action.

"The means of committing the act are, in general, irrelevant for the existence of crimes against the person, but, in some cases, the use of certain means conditions either the existence of the crime in its simple form (violence or threat, in the case of blackmail), or the existence of more serious forms serious (means that endanger the lives of several people, in the case of qualified murder)".²⁴

At the same time, the place or time of committing the crime conditions the existence of the

²¹ G. Antoniu (coord.), *Explicații preliminare ale noului Cod penal*, Ed. Universul Juridic, Bucharest, 2013, p. 20, *apud* A. Boroi, *op. cit.*, p. 23.

²² Al. Boroi, *op. cit.*, p. 181.

²³ *Ibidem*, p. 23.

²⁴ *Ibidem*.

crime as such, or of a qualified form, for example: during the night during domestic violence [art. 224, para. (2) NCP] or violation of the professional premises [art. 225, para. (2) NCP].

"When the law conditions the incrimination on the existence of an invoked material consequence, the *causal relationship* between the deed and the result will have to be established. In the case of crimes of simple action, there is no such necessity".²⁵

5. The subjective side

The subjective side of a crime in the science of criminal law is understood as the mental activity of a person directly related to the commission of a crime. Forming the psychological content of a dangerous social act, the subjective side of the crime is its internal side (in relation to the objective one). The signs of the subjective side of a crime in the science of criminal law are mainly recognized as guilt, motive and purpose.

Guilt is a certain form of a person's mental attitude towards a dangerous social act committed by him.

A number of elements of intentional crimes are mandatory, the characteristic is called the motive or purpose of the crime.

The motive of a crime is an internal impulse, determined by certain needs, after which the perpetrator was guided to commit a crime.

The goal is the end result the criminal seeks to achieve.

For the most part, the crimes against the person are committed with intention, direct or indirect (murder), with praeterintention (hits, bodily injuries and injuries causing death, but also for some of the aggravated forms, for example rape), or by fault (culpable homicide, culpable bodily harm).

"Establishing the form of guilt with which the perpetrator acted and the methods corresponding to each form are important for the legal classification of the act and, sometimes, for the individualization of the sanction".²⁶

As a rule, for the existence of the crime, the *motive* with which the criminal acted, or the purpose he pursued when he committed the criminal act, is not important, except only for the dosage of the punishment.

"Only as an exception, sometimes, the legislator includes the motive or purpose, either as a requirement of the content of the crime, or as an aggravating circumstance [art. 189, paragraph (1) letter b), c) and d) C. pen.].

For example, "qualified murder is a variant of simple murder, its content includes elements or aggravating circumstances".²⁷

The incorrect establishment of the reason for the crime, which does not result from the factual circumstances established by the court, also attracts the cancellation or modification of the punishment due to the incorrect application of the criminal law.

6. Forms. Ways. Penalties

Forms. "Crimes against the person are susceptible, as a rule, to unfold over time; as a result, they can have imperfect forms, such as preparatory acts or attempt".²⁸

Preparatory acts are not sanctioned, although they are possible for many crimes against the person. These are sometimes included in the attempt, such as in the crime of unlawful deprivation of liberty (art. 205 NCP).

"They could be punished if they are carried out by a person other than the author, becoming acts of prior complicity, however, if the author commits acts of preparation, they are absorbed into

²⁵ Gh. Nistoreanu, A. Boroi, I. Molnar, V. Dobrinioiu, I. Pascu, V. Lazăr, *op. cit.*, p. 94.

²⁶ Al. Boroi, *op. cit.*, p. 24.

²⁷ Ibidem.

²⁸ Ibidem.

the activity of authorship".²⁹

Also, the attempt is possible for most of the crimes against the person, but it is criminalized only for some of them.

According to paragraph 32 NCP, the attempt consists in the execution of the intention to commit the crime, but the execution was interrupted or did not produce its effect.

The attempt is sanctioned in the case of murder crimes [art. 188, para. (2) NCP]; qualified murder [art. 189, para. (2) NCP]; bodily injury [art. 194, para. (2) NCP]; attacks on the fetus [art. 201, para. (1) and para. (2) NCP]; unlawful deprivation of liberty [art. 205, para. (1) – (3) NCP]; rape [art. 218, para. (1) – (3) NCP] etc.

The attempt is not possible in the case of crimes committed with praeterintention, such as the crime of blows causing death, as well as those committed through negligence.

According to the legal dictionary, premeditation is "the form of guilt that can be found in the subjective side of a crime and that exists when the result produced is more serious than the one pursued or accepted by the perpetrator. In this case, in order for the criminal liability of the perpetrator to be established depending on the more serious result, it will be necessary to establish the existence of the intention in relation to the more serious result that occurred (*majus delictum*), for example, in the case of the crime of blows causing death".³⁰

"In one case, it was held that the defendant, striking with the intention of defending himself, did not foresee the resulting outcome, although, in relation to his life experience and his personal duty to behave in such a way as not to injure other people, he could and should have foreseen the possibility of such a result occurring, so he acted with premeditation, a subjective element specific to the crime of beatings causing death"

The consummation of the crimes from the Crimes against life chapter "takes place at the moment of producing the socially dangerous result, consisting in an effective damage to the protected social value or in the creation of a state of danger for that value"³¹.

Ways. Criminal acts against the person can be punished in many normative ways: simple, qualified (mitigated or aggravated).

"Each normative modality can know, in turn, numerous factual modalities, of concrete realization, determined by the concrete circumstances in which the act was committed, in relation to the means used, with the place and time, with the relationship between the offender and the victim, with the mobile, being able to define the commission of the act"³².

The sanction. Bringing a person to criminal responsibility for a certain act, which is a crime, leads to the punishment of that person. Punishment for a crime is a retaliatory measure of the state, consisting in the coercion of the criminal (the person who committed the crime). When the state punishes a person, there is a restriction or deprivation of certain rights.

For example, with a fine, the state limits income, forcing the payment of a certain amount of money through a court decision. When deprived of liberty, a person is placed in a special place (in a penal colony or prison), where he must remain without the right to be released for a certain period.

In the case of crimes against the person, the sanction is differentiated according to the importance of the social relations protected by the Criminal Code and the dangerousness of the criminal act.

If a person commits a crime, then the liability for it will also be criminal. Such liability is provided for in the Criminal Code.

It contains types and measures (including dimensions) of criminal liability. Criminal liability is the state's response to the commission of a crime. The aim is to restore violated rights, punish the perpetrator, temporarily isolate a potentially dangerous criminal, exercise influence in order to further suppress the commission of crimes, re-education, etc.

The definition of the article, its part, which provides for liability for the criminal act, can be

²⁹ Gh. Nistoreanu, A. Boroï, I. Molnar, V. Dobrinioiu, I. Pascu, V. Lazăr, *op. cit.*, p. 95.

³⁰ <http://legeaz.net/dictionar-juridic/praeterintentie>, consulted on 1.10.2022.

³¹ T. Toader, *Drept penal român. Partea specială*, 7th edition revised and updated, Ed. Hamangiu, Bucharest, 2012, p. 34.

³² Al. Boroï, *op. cit.*, p. 24.

considered the completion of the first qualification stage in criminal law. This is, among other things, a prerequisite for solving the problems in the second qualification stage. Part of such questions, relatively small, can be related to finding out the presence of signs of a crime formulated directly in the articles of the general part of the Criminal Code (for example, regarding the minimum age of criminal responsibility), in accordance with a specific article of the special part of the Criminal Code. In all these cases, the algorithms and their stages of qualification in criminal law should be used.

The most severe punishment that can be applied is life imprisonment, which is applied in the case of qualified murder (art. 189 NCP); while the lowest consists of a fine and is applied, for example, in the case of bodily injury due to negligence (art. 196 NCP).

"As a coercive measure, the prison sentence consists of deprivation of liberty for a fixed period between 15 days and 30 years and is executed according to the law on the execution of punishments".³³

The prison sentence enforcement regime is decided in accordance with Law no. 254/2013³⁴, based on the descending system.

Custodial sentences are executed by respecting and protecting the life, health and dignity of the person deprived of liberty, their rights and liberties, without causing physical suffering or degrading the convicted person.

Both life imprisonment and the fine are not specified by themselves in the provisions of the Criminal Code, but alternatively with the prison sentence. The prison sentence can also be provided alone for: murder, rape, manslaughter, etc.

Regarding some of the crimes against the person, complementary punishments are provided, which consist in the prohibition of certain rights, such as: qualified murder (art. 189 NCP); determining or facilitating suicide [art. 191, para. (3) NCP]; interruption of pregnancy [art. 201, para. (2) – (4) NCP], etc.

Even if for some of the crimes against the person the complementary punishments are not provided in the criminal law, they are applied based on and under the conditions of art. 65 NCP.

7. Aggravating forms

In addition to the simple form, some of the crimes criminalized in this title also have one or more aggravating forms, such as: determining or facilitating suicide [art. 191, para. (2) – (3) NCP]; manslaughter [art. 192, para. (2) – (3) NCP]; unlawful deprivation of liberty [art. 205, para. (3) – (4) NCP] etc.

The aggravating forms are "those circumstances explicitly provided for in the criminal law that always and unequivocally reflect a higher gravity of the crime and/or an increased dangerousness of the criminal, thus determining the application of a more severe punishment".³⁵

According to art. 77 NCP, the aggravating circumstances are:

- committing the act by three or more people together;
- committing the crime through cruelty or subjecting the victim to degrading treatments;
- committing the crime through methods or means likely to endanger other people or property;
- the commission of the crime by a major criminal, if it was committed together with a minor;
- committing the crime by taking advantage of the obvious vulnerability of the injured person, due to age, health, infirmity or other causes;
- committing the crime in a state of voluntary intoxication with alcohol or other psychoactive substances, when it was provoked in order to commit the crime;
- the commission of the crime by a person who took advantage of the situation caused by a calamity, the state of siege or the state of emergency;

³³ Supreme Court of Justice, Criminal Division, decision no. 338/2002 *apud* Al. Boroi, *op. cit.*, p. 437.

³⁴ Law 254/2013, regarding the execution of punishments and custodial measures ordered by judicial bodies during the criminal process, published in the Official Gazette of Romania, Part I, no. 514 of August 14, 2013.

³⁵ I. Pascu, V. Dobrinoiu, T. Dima, M. A. Hotca, I. Chiș, C. Păun, M. Gorunescu, M. Dobrinoiu, *Noul Cod penal comentat. Partea generală*, 2nd ed., Ed. Universul Juridic, Bucharest, 2014, p. 489.

- committing the crime for reasons related to race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, non-contagious chronic disease or HIV/AIDS infection or for other similar circumstances kind, considered by the perpetrator as causes of a person's inferiority in relation to the others.

8. Prescription of criminal liability

As it follows from art. 153 NCP, the statute of limitations removes criminal liability. This does not exclude the crime, but is a cause that makes it impossible to apply criminal law sanctions, in situations where the legal criminal conflict report has not been clarified within a certain period of time.

"In the case of the crimes of murder provided for in art. 174 – 176 C. Pen. (the old Criminal Code), as well as in the case of intentional crimes followed by the death of the victim, the statute of limitations does not remove criminal liability and the execution of the main punishment".³⁶

9. Procedural aspects

The criminal action for most of the crimes against the person is initiated *ex officio*. However, there are crimes against the person for which the criminal action is initiated upon the prior complaint of the person who suffered as a result of the criminal action, such as in the case of hitting or other violence (art. 193 NCP); bodily injury due to negligence (art. 196 NCP); the threat (art. 206 NCP); harassment (art. 208 NCP); rape [art. 218, para. (1) and (2) NCP]; sexual aggression [art. 219, para. (1) NCP], etc.; and crimes in which the criminal action can be initiated *ex officio*, as well as upon the prior complaint of the injured person, such as: hitting or other violence (art. 193 NCP) and culpable bodily harm (art. 196 NCP).

As a rule, when the criminal action was initiated upon the prior complaint of the injured person, reconciliation removes the criminal liability.

Also, the reconciliation of the parties removes the criminal liability in the case of the crimes of hitting or other violence or culpable bodily injury, even if the criminal action was initiated *ex officio*.

10. Conclusion

The prevention of crimes against the person is one of the important elements of fighting crime in general. These categories of crimes violate the most important and valuable social relations - ensuring the right to human life. The essential features of the elements of the crime of which any crime of a certain kind is a part, necessary and sufficient for the recognition of a specific fact as a crime, are described in the law. The method of committing the crime appears in this case in the form of specific actions, those techniques and methods by which the criminal influences the subject of the criminal offense.

Considering the concept of the object of a crime, we note the definition of a criminal act as a violation of a legal norm in its real existence or, in other words, as a violation of the interests of life protected by law, we thus establish the concept of the object of criminal criminality as a commandment or rule of law, which found its expression in the sphere of subjective rights, protected by this norm, the interest of life.

The object of a crime (component of the crime) is one of the four subsystems of the signs of a crime, which characterizes what the person who commits the crime violates.

The objective side of a crime always has features that are characteristic only of a particular crime. However, disparate crimes may have common features inherent in any element of the crime.

³⁶ The provisions regarding the imprescriptibility of criminal liability and the execution of punishment for those crimes were consecrated by Law no. 27/2012 for the amendment and completion of the Criminal Code of Romania (Official Gazette no. 180 of March 20, 2012) *apud*, T. Toader, *op. cit.*, p. 35.

The subjective side consists in establishing the psychological position of the perpetrator from the moment he committed the act.

Differentiation of liability is a legislative separation, stratification of liability according to certain circumstances, taking into account which deed receives an appropriate assessment in law. In practice, differentiation is achieved by various means that take into account certain differentiating circumstances of the crime committed and based on them, modify the nature, type and amount of liability.

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