

Incitement to Suicide with Social Networks and the Internet: Problems of Criminal Liability in Ukraine

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Abstract: It has been substantiated legal exposure of children on the internet due to the cases of incitement to suicide. It has been analyzed the problems of legislation and law enforcement practice of criminal responsibility for incitement to suicide with the use of internet. It has been proposed the ways of their improvement.

Keywords: internet, social networks, incitement to suicide, crime.

I. INTRODUCTION

With the development of technical progress and the evolution of mankind, new, previously unknown crimes and ways to commit them appear. So, with the advent and development of the Internet there were new ways of committing not only theft or fraud, but also suicide. At the same time, a new way of incitement to suicide appeared in the world, along with an increase in the number of regular users of the Internet.

II. THE PROBLEM OF SUICIDE IN UKRAINIAN SOCIETY

Ukraine is among the top ten countries with the highest suicide rate. The ratio of suicides and incitements to suicide is about one to twenty. At the same time, in Ukraine, from 2010 to 2015, only four sentences were imposed for incitement to suicide, that is, less than one sentence per year [1]. Normally, the law enforcement agencies stopped proceedings in suicide cases without finding traces of violence on the body of the dead. In practice, in the case of a person's death, the version of suicide is not properly investigated or ignored in general. Moreover, under current legal realities, Ukrainian legislation and practice of law enforcement turned out to be helpless ("unarmed") before a new method of suicide – incitement to suicide using social networks and the Internet.

Due to the high latency of suicide attempts and the absence of norms in the Criminal Code of Ukraine (hereinafter – the CC of Ukraine) until February 8, 2018 [2], which would give the possibility of prosecution for incitement to suicide through social networks and the Internet, to assess the actual situation and condition the problem was rather difficult before. For example, only through a private investigation of a relative of one deceased girl (who was subjected to suicide using the Internet) and through a journalistic investigation conducted at the request of the aforementioned relative, nine people were incited to suicide. The materials of this private investigation were transferred to law enforcement agencies. As a result, a criminal case was opened in Zaporizhzhya in September 2015 under Article 120 of the Criminal Code of

Ukraine in relation to Yevgen Krivosheyev. He was suspected of incitement to suicide through the Internet of nine young women, four of whom lived in the territory of the Russian Federation, and five women were the residents of Ukraine. Unfortunately, only one of the victims of Yevhen Kryvosheyev, who lives on the territory of Ukraine managed to save [3].

Under this criminal proceedings, the investigators defined IP-address of the person who using the woman's name in the social network "VKontakte" looked for the future victims and drove them to suicide. The apartment of the suspect, Yevgen Kryvosheyev, was searched and seized a computer from which the person suspected of nine victims incitement to suicide came to the Internet. According to the rescued victim of the crime, the suspect called himself a female name, presented himself as a nurse, gave advice and recommendations on how to commit suicide, helped to choose the place for hanging tools and its implementation, exhorted to do it together. The correspondence of the suspect with other victims (which, unfortunately, could not be saved) confirmed his methods of driving to suicide. It should be noted that after the death of the victims, the suspect wrote rather rude things to their relatives in social networks [4].

However, it was not possible to bring Yevgen Krivosheyev to criminal liability. Indeed, at the time of committing these crimes, i.e. incitement to suicide nine persons, there was no rule that would provide criminal penalties for this crime in the Criminal Code of Ukraine.

III. LEGAL EXPOSURE OF CHILDREN ON THE INTERNET AND SOCIAL NETWORKS FROM THE IMPACT INCITEMENT TO SUICIDE

The lack of power of Ukrainian legislation and law enforcement officers to withstand the tendencies of growing crime on the Internet and the emergence of a new method of suicide is also evidenced by the terrible consequences that our society has suffered from the spread of social networks, the so-called "death groups".

So, in recent years, the number of suicides among children has increased in Ukraine. For example, in 2015 half a hundred children left their lives with the suicide. In this case, the boys among them were twice as many as girls. Commissioner of the President of Ukraine on the rights of the child Mykola Kuleba relates this to the development of "death groups" in the most popular social networks VKontakte, Facebook, Twitter and Instagram [5].

It is worth noting that at the end of December 2017, the Investigation Department of the National Police of Ukraine reported on the discovery of almost 1,000 "death groups",

600 of which had already been blocked, and the prevention of 10 suicide attempts. As a whole, there were almost 35 thousand signatories from Ukraine in these public associations. According to the opinion of the head of the National Police of Ukraine Serhiy Knyazev: "Children are most vulnerable to the negative influence of social networks especially of 13-17 years old who have problems in communicating with others." [6].

Meanwhile, in 2015 the mass media were widely speaking about the first series of childhood suicides, which were initiated by "death groups" from social networks where the victims were mostly children. Mass media actively talked about popularization among children of terrible "games", participation in which should cost them (children) their life. One of the deadly games is the Blue Whale. Symbols of this game are whales, which are chosen by the administrators of the "group of death" non-accidentally, because the whales are one of the few species of mammals, which can stop their lives by spontaneously throwing on the shore. Participants of the game distributed tasks (for example, cut their hands with a blade, taking all of this process on the video), where the last task was a suicide, shooting on the camera [7]. According to the evidences of the cyberpolicemen, the content of the shootings taken during the game on the camera of the facts of driving the children to suicide is very big money in the closed online forums.

Meanwhile, the Blue Whale is not the only danger of children and adolescents in social networks and the Internet. Recently, another famous game in Ukraine and in the world for the search of death has become known i.e. "Run or Die". According to the rules of the game the child should be in front of the car unexpectedly for its driver to cross the roadway. At the same time, the highest aerobatics is considered when a participant in a suicidal game during a run "touches" his body with the front of the car.

An example of similar games to death is "Red Owl", "Wake Me at 4:20", "Sea of Whales", "F57", "Quiet House", "Pink Fairies", "Dog Kite", etc. They, as in the "Blue Whale" and "Run or Die", have much in common. Investigators found that access to all these groups was strictly limited and was carried out at the discretion of the administrator of the "death group". Newly-made participants had to pass different tests and tasks, as the performance of which progressed the rating, which opens up access to new "opportunities": content and tasks related to the theme of death, suicide, self-injury and staging of these events. Death was propagated as the only correct and beautiful way out of difficult life situations. Cultivated depressive psychological states, the use of violence against themselves and others, and human values – family, friends, education – were criticized and laughed at.

If we talk about the legal assessment of the "games of death" data, then, of course, this is about crimes, not ordinary suicides. Indeed, according to the Department of Cyberpower Serhiy Demedyuk, "Suicide is a conscious self-deprivation of life. And here's a crime. They provoke: "Can you do it?" That's when they find out from the very large number of the weakest children i.e. those who cut their hands, show that they can do something for themselves – all the attention of the group is redirected to it. And the terrible countdown of

days starts, the "quest" that begins in the finale leads to the most terrible" [8].

Employees of the cyberpolice found out: often in "death groups", if the child refuses to kill himself, the criminals calculate the IP address of the participant and tell him that for this cowardice will have to answer his relatives. Moreover, according to the National Police of Ukraine, under the guidance of administrators for children, there are skilled psychologists who can quickly push them into suicide.

As we see, with the development of technical progress and evolution of humanity there are new, no less dangerous ways of committing with the help of social networks and the Internet chain of criminal acts that will encroach on human life and health. Unfortunately, neither Ukrainian society nor law enforcement agencies are ready for these new challenges.

IV. CURRENT LEGISLATION AND LAW ENFORCEMENT PRACTICE IN THE AREA OF RESPONSIBILITY FOR INCITEMENT TO SUICIDE USING SOCIAL NETWORKS AND THE INTERNET

On the one hand, it's terribly to state that no administrator of the "death group" of the social network has been adequately punished for committing suicides by their minor participants, but on the other hand it should be remembered: "There is no crime and punishment without a predetermined law" (Latin "Nullum crimen, nulla poena sine praevia lege poena ligit"). After all, this principle of law is obliged to adhere to every state that considers itself to be legal and democratic.

Until the entry into force of March 7, 2018, the Law of Ukraine No. 2292-VIII "On Amendments to Article 120 of the Criminal Code of Ukraine on the Establishment of Criminal Responsibility for the Assistance to Suicide" [9], the actions of the administrators of "death groups" most closely fell within the indications of the crime "Incitement to Suicide", stipulated by Art. 120 of the Criminal Code of Ukraine. However, it is not true for 100%. The editorial of Part 1 of Art. 120 of the Criminal Code of Ukraine, which was in force until March 7, 2018 (before the entry into force of the above-mentioned law), provided the criminal liability for bringing another person to a suicide or suicide attempt, which, from the objective part of the crime, could only be committed in one of the following ways: 1) cruel treatment with him; 2) blackmail; 3) coercion for unlawful actions, or 4) the systematic humiliation of its human dignity. Qualifying signs of incitement to suicide or suicide attempt was recognized at the time of the commission specified in Part 1 of Art. 120 of the Criminal Code of Ukraine regarding a person who was materially or otherwise dependent on the perpetrator or on two or more persons (Part 2 of Article 120 of the Criminal Code of Ukraine) or if it was committed against a minor (Part 3 of Article 120 of the Criminal Code of Ukraine) [10].

Consequently, incitement to suicide, which was committed by March 7, 2018, without the use of coercion, blackmail, humiliation and the other stipulated in Art. 120 of the Criminal Code of Ukraine the ways (for example, by systematic inclining a person to a suicide) were not recognized as a criminal act. Therefore, law enforcement

agencies could not be prosecuted for committing suicide or attempted suicide, which was carried out through the use of social networks or the Internet. Furthermore, most suicide cases committed by adolescents who were members of so-called “death groups” did not have any criminal-law assessment at all. Therefore, the society faced an urgent question about how to solve this problem.

One of the possible ways of controlling children on the Internet was the introduction of a ban on registration in social networks for children under the age of 14 years to avoid child suicides. However, we believe that the use of this method of control will be inappropriate and illegal. First, such a restriction would not be in line with modern living conditions and will be, first of all, the violation of the child’s right to access the Internet; and secondly, this ban will not prevent children from registering in social networks.

On February 8, 2018, the Parliament of Ukraine adopted the Law of Ukraine “On Amendments to Article 120 of the Criminal Code of Ukraine on the Establishment of Criminal Responsibility for the Assistance to Suicide, which was intended to establish criminal liability for any assistance to a person in committing suicide or attempted suicide [11].

To achieve this goal, this Law was laid down in Part 1 of Art. 120 “Conduct to suicide” of the Criminal Code of Ukraine in a new wording, establishing criminal responsibility for “proving a person to suicide or attempted suicide resulting from the cruel treatment, blackmail, systematic humiliation of his human dignity or systematic unlawful coercion of actions that contrary to her will, predilection for suicide, as well as other actions that contribute to committing suicide” [12]. As we have already noted, the new wording of this article came into force on March 7, 2018.

In our opinion, Art. 120 of the Criminal Code of Ukraine, as amended on February 8, 2018, will not facilitate the establishment of proper normative regulation of criminal responsibility for bringing a person to suicide or any assistance to a person in committing a suicide or attempting to commit the latter through the use of social networks or the Internet. We believe that the more successful option of teaching art. 120 of the Criminal Code of Ukraine would have been editorially containing a clear indication of the objective aspect of this criminal act, such as the use of the social network or the Internet. This would contribute to better practical application of this article, minimize mistakes when qualifying these criminal acts. After all, first of all, it is not clear from the contents of the current edition of Part 1 of Art. 120 of the Criminal Code of Ukraine that its norm covers cases of criminal liability for the proving or attempted suicide attempts under the influence of the Internet or social networks.

Secondly, we believe that incitement to suicide or attempted suicide is a computer crime, and therefore it would be much more effective if the parliament did not make changes to Part 1 of Art. 120 of the Criminal Code of Ukraine, and in this regard subjected the editors of the Criminal Code of Ukraine in part of the norms providing for criminal liability for computer crimes.

V. WAYS TO IMPROVE THE LEGISLATION ON CRIMINAL RESPONSIBILITY FOR INCITEMENT TO SUICIDE WITH SOCIAL NETWORKS AND THE INTERNET

We believe that the acts of committing suicide with the use of social networks and the Internet should be classified as a category of computer crimes. Therefore, the norm, which would include criminal liability for the given act, should be found in Section XVI of the Criminal Code of Ukraine i.e. “Crimes in the field of the use of electronic computing machines (computers), systems and computer networks and telecommunication networks” [13].

The impassable placement of information in the networks that not only provokes children to deprive oneself of life, but also popularization of this information in social networks and the Internet is one of the most important causes of child suicide. Therefore, criminally punishable should be both the placement in the public access networks of suicide, and its popularization.

In Ukraine, we propose introducing criminal liability for the creation of “death groups” and games containing suicidal topics. It is necessary to foresee the criminal responsibility for inclining – blackmail, bribery, deception, persuasion, etc. – to children for suicide, as well as for the promotion and moral and psychological push of children to commit suicide. It is also necessary to criminalize the creation, use and distribution of botnets, that is, a network of computers infected with a malicious program that allows criminals to control computer devices remotely and use them to commit any illegal acts, including the distribution of content suicidal character.

We consider it necessary to establish a criminal responsibility for bringing not only to suicide, but also to commit self-harm.

VI. CONCLUSIONS

Consequently, taking into account the global tendency to increase the crime rate on the Internet and the emergence of a new way of suicide, it is necessary to make timely changes to the criminal law that will meet the current challenges of the perpetrators. The current CC of Ukraine made an attempt to distinguish punishment for the criminalize acts of suicide or incitement to suicide by using social networks and the Internet. However, we believe that more effective and effective in counteracting and combating these crimes will be a tendency for them to be perceived not only as crimes against human life and health, but also, first and foremost, as computer crimes in legislation and law enforcement practice. Actually, it is with this in mind that the reform of criminal legislation and the practice of its application in Ukraine should be implemented.

REFERENCES

- [1] Pojasnjuval’na zapyska do proektu Zakonu «Pro vnesennja zmin do Kryminal’nogo kodeksu Ukrai’ny (shhodo vstanovlennja kryminal’noi’ vidpovidal’nosti za spryjannja vchynennju samogubstva)» [*Explanation for the Draft of the law “on changes of the Criminal Code of*

- Ukraine on the criminal liability for incitement to suicide*] – [Electronic resource]. – Mode of access: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58195. [in Ukrainian].
- [2] Kryminal'nyj kodeks Ukrainy vid 5 kvitnja 2001 r. (v redakcii' stanom na 18 kvitnja 2018 r.) [*Criminal Code of Ukraine*]. – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2341-14>. [in Ukrainian].
- [3] Pojasnjuval'na zapyska do proektu Zakonu «Pro vnesennja zmin do Kryminal'nogo kodeksu Ukrainy (shhodo vstanovlennja kryminal'noi' vidpovidal'nosti za sprjannja vchynennju samogubstva)» [*Explanation for the Draft of the law “on changes of the Criminal Code of Ukraine on the criminal liability for incitement to suicide”*] – [Electronic resource]. – Mode of access: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58195. [in Ukrainian].
- [4] Pojasnjuval'na zapyska do proektu Zakonu «Pro vnesennja zmin do Kryminal'nogo kodeksu Ukrainy (shhodo vstanovlennja kryminal'noi' vidpovidal'nosti za sprjannja vchynennju samogubstva)» [*Explanation for the Draft of the law “on changes of the Criminal Code of Ukraine on the criminal liability for incitement to suicide”*] – [Electronic resource]. – Mode of access: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58195. [in Ukrainian].
- [5] Smertel'ni igry pidlitkiv: na zminu «Synim kytam» pryshla sui'cydal'na «Chervona sova». [*Death games of teens: instead of “Blue whales” appeared “Red owl”*] – [Electronic resource]. – Mode of access: <http://expres.ua/news/2017/12/06/275162-smertelni-igry-pidlitkiv-zminu-synim-kytam-pryshla-suyicydalna-chervona-sova>. [in Ukrainian].
- [6] «Grupy smerti» staly novym vyklykom dlja suspil'stva ta policii'. [*“Groups of death” became a new challenge for the society and police*] – [Electronic resource]. – Mode of access: <https://tsn.ua/ukrayina/sini-kiti-kiberpolicija-viyavila-mayzhe-1000-grup-smerti-ta-poperedila-ponad-10-sprob-suyicidu-919927.html>. [in Ukrainian].
- [7] Dovedennja do samogubstva: pravovyj aspekt . [*Incitement to the suicide: legal aspect*] – [Electronic resource]. – Mode of access: <http://reporter.pl.ua/novini/sytuatsija/26463-dovedennja-do-samogubstva-pravovyj-aspekt>. [in Ukrainian].
- [8] «Grupy smerti»: golovnyj kiberpolicejs'kyj Ukrainy rozkazav podrobyci pro samogubstva pidlitkiv i skandal'nyh kytiv. [*“Group of death”: the chief cyberpoliceman of Ukraine told about the details of teens' suicides*] – [Electronic resource]. – Mode of access: <https://nv.ua/ukr/publications/tse-vbivstva-na-jakih-zarobljajut-dorosli-golovnij-kiberpolitsejskij-ukrajini-rozkazav-pro-grupi-smerti-641854.html>. [in Ukrainian].
- [9] Zakon Ukrainy «Pro vnesennja zminy do statti 120 Kryminal'nogo kodeksu Ukrainy shhodo vstanovlennja kryminal'noi' vidpovidal'nosti za sprjannja vchynennju samogubstva» № 2292-VIII vid 8 ljutogo 2018 r. [*The law of Ukraine “On changes in article 120 of the Criminal Code of Ukraine on setting the criminal liability for incitement to suicide”*] – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2292-19/paran5#n5>. [in Ukrainian].
- [10] Kryminal'nyj kodeks Ukrainy vid 5 kvitnja 2001 r. (v redakcii' stanom na 18 kvitnja 2018 r.) [*Criminal Code of Ukraine*]. – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2341-14>. [in Ukrainian].
- [11] Zakon Ukrainy «Pro vnesennja zminy do statti 120 Kryminal'nogo kodeksu Ukrainy shhodo vstanovlennja kryminal'noi' vidpovidal'nosti za sprjannja vchynennju samogubstva» № 2292-VIII vid 8 ljutogo 2018 r. [*The law of Ukraine “On changes in article 120 of the Criminal Code of Ukraine on setting the criminal liability for incitement to suicide”*] – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2292-19/paran5#n5>. [in Ukrainian].
- [12] Kryminal'nyj kodeks Ukrainy vid 5 kvitnja 2001 r. (v redakcii' stanom na 18 kvitnja 2018 r.) [*Criminal Code of Ukraine*]. – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2341-14>. [in Ukrainian].
- [13] Kryminal'nyj kodeks Ukrainy vid 5 kvitnja 2001 r. (v redakcii' stanom na 18 kvitnja 2018 r.) [*Criminal Code of Ukraine*]. – [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/2341-14>. [in Ukrainian].