

Imagine the following situation: person A, using the moment of inattention of person B, pours a substance into her coffee mug. The name of the substance, according to reality, was clearly indicated on the bottle. This substance is a very strong poison – swallowing even a minimal amount would, with a high probability, cause immediate death. The next sip of coffee was therefore the last in person's B life – even before putting the cup down, they fell unconsciously on the table. Does the outlined facts create unequivocal grounds to conclude that person A intentionally caused a lethal effect, i.e. desired to kill person B or accepted that their behavior would kill them?

The first intuition that appears after such a question is, of course, the conclusion about the intentionality of the person's A behavior, and even in the form of a direct intent, i.e. the desire to kill person B. There is no doubt that at the time of the criminal act person A had to be aware that they had been giving the specific substance –its name was clearly indicated on the bottle.

Without answering the above question, however, let us go back a few hours before the act. Person A then went to the pharmacy to buy a laxative. They were motivated by the desire to make an infantile joke to person B, whom the perpetrator had known since they were children. The pharmacist made a mistake though, and instead of laxative, they gave person A a very similar poison bottle. They assured, however, that to their knowledge it was the best laxative on the market, what person A, for example by reading the leaflet attached to the bottle, did not verify.

Could the above circumstance, or maybe even – should – change the initial intuition as to the legal assessment of the act of person A and change it to unintentional causing of death?

An attempt to provide a universal answer to this, as well as countless similar questions, will be the subject of analyzes under the project. The purpose of the research is to construct a normative model of criminal law evaluation of a behavior in the sphere of the will of the perpetrator of a criminal act, defined as the model of subjective attribution. To put it simply, it refers to elaborating, based on the interpretative possibilities created by the provisions determining the basis of criminal liability, a universal and comprehensive pattern for assessing the perpetrator's behavior on the plane of volitional attitude towards the act, i.e. a specific template enabling verification, whether, for example, the perpetrator desired, what they did or did not desire, but accepted it, or maybe even neither desired nor accepted it.

The assessment of the perpetrator's behavior in terms of their volitional attitude towards the commission of a criminal act is necessary because the crime can only be spoken of when, in addition to the objective statement that the perpetrator actually committed the criminal act, it will also be established that the act was committed by the perpetrator with special psychological relation to the act required by the law, and that the perpetrator could be culpable of committing it, which means that they can be accused of having behaved in such, not any other, way. Criminal liability is not an objective liability though, based solely on comparing the perpetrator's behavior with the content of criminal law prohibition/order; it also requires, among others, appropriate volitional attitude towards the committed act.

While the plane of objective attribution of criminal liability, i.e. the assessment of compliance of perpetrator's behavior with the statutory description of the criminal act, as well as the plane of attribution of guilt, i.e. assessment whether the perpetrator can be accused of unlawful conduct, are the subject of thorough research in Polish science of criminal law, the plane of subjective attribution of criminal liability in the area of perpetrator's volitional attitude presented by the perpetrator at the time of the act, received more serious interest only from very few researchers.

From the point of view of the difficulty of the issues which refer to that matter, this is not surprising. Subjective attribution, as the name implies, concerns the reconstruction of facts which took place "inside" the perpetrator, more precisely – in his head. What is more, these findings are not made by the perpetrator himself, but by another person, and they are also made after the act, despite the fact that they concern what took place during it.

However, high complexity of that matter does not justify the cursory treatment of this issue by researchers. The subjective sphere is identically the sphere of facts as the objective sphere – the only difference is that the former take place on the inside the perpetrator, while the latter – on the outside. At the same time, the assessment of what took place on the inside of the perpetrator is made, of course, only on the basis of what took place on the outside of them. If so - then it should be assumed that it is possible to create a model that precisely indicates which of those external circumstances, and also from what angle, should be assessed. This model would unify the jurisprudence practice and, moreover, would allow clear determination of the basis for criminal liability, which would be of considerable guarantee significance.