


## THE FIRST DEGREE MURDER IN A CRUEL MANNER

**ABSTRACT:** The first degree murder belongs to the group of the heaviest criminal offences punishable by the heaviest penalties. Basically, the first degree murders have all the characteristics which are common to every murder, i.e. the unlawful deprivation of another person's life. But, the murder accompanied by a certain qualifying circumstance makes it heavier and socially more dangerous than an ordinary murder. In this paper, we will look back and explain in more detail the first degree murder in a cruel manner, which is a complex criminal offence, where, on the one hand, cruelty means taking the victim's life in such a way that it causes the excessive pain and suffering, while, on the other hand, it is necessary that a perpetrator also shows a special emotional relationship towards the pain and suffering (in the form of feeling pleasure, enjoying them, the absence of pity, etc.). We will analyze the hypothesis of the criminal offence of the first degree murder committed in a cruel manner to be planned and a person for the attempt of such an offence to be punished. We will draw a parallel between the criminal act of murder and the first degree murder including the fact whether this offence was committed in a conscientious or unconscientious way. We will also consider the issue of the organized crime and how often this type of an offence is committed in criminal groups. The aim of the research is to meet the meaning and qualifying circumstances being specific for this offence as well as to see how this offence is qualified in practice. It also covers the issue of its sanctions and

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how the court evaluates certain findings and opinions in the proceedings including the aggravating circumstances relevant for determining the amount of the punishment.

**Keywords:** *criminal offence of the first degree murder, cruelty, murder, organized crime, law.*

## 1. Introduction

First – degree murders belong to the category of the most serious offences that carry the most severe punishments. This offence belongs to the group of offences against life and body which are incriminated in the thirteenth chapter of the Criminal Code of the Republic of Serbia. Basically, first – degree murders have all the characteristics which are common to every murder, that means, unlawful deprivation of the life of another person, but the murder is accompanied by a certain qualifying circumstance which makes it heavier and socially more dangerous than an ordinary murder (Bećirović, 2014, p. 202). Qualifying or heavier murder exists when premeditated murder is committed in such a way or under such circumstances that it gives a greater degree of social danger, for which the law orders a heavier punishment (Jovanović, Đurđić & Jovašević, 2004, p. 110).

In our criminal legislation we distinguish ordinary murder, which is incriminated in Article 113 of the Criminal Code of the Republic of Serbia, and first – degree (qualifying) murder, where their distinction is made on the basis of several criteria. First – degree murder consists of several forms that can be classified into the following groups:

1. First – degree murder according to the method of execution, which includes:
  - Murder in a cruel and insidious manner
  - a) Murder with reckless, violent behaviour
  - b) Murder in a way that intentionally endangers the life of another person
  - c) Murder during the commission of the crime of robbery or robber's theft
2. First – degree murder according to the motives of execution, which includes:
  - a) Murder for self – interest
  - b) For the purpose of committing or concealing another offence
  - c) Out of ruthless revenge or other base motives

3. First – degree murder according to the object of the attack, which includes:
  - a) Murder of an official or a military person in the performance of official duty
  - b) Murder of a judge, public prosecutor, deputy public prosecutor or a police officer in connection with the performance of duty
  - c) Murder of a person who performs tasks of public performance in connection with the tasks performed by that person
  - d) Murders of a child or a pregnant woman
  - e) Murder of a family member who was previously abused by the perpetrator
  - f) Premeditated murder of several people and it is not the murder committed in a fit of passion, murder of a child during child-birth or mercy killing (Čejović & Kulić, 2014, p. 388).

The offence is incriminated in Article 114 of the Criminal Code (the Criminal Code of the Republic of Serbia, 2005). For this offence, the law orders the punishment of the imprisonment for at least ten years or life imprisonment, and the possibility of mitigating the sentence in the sense of Article 57, paragraph 2 of the Criminal Code is excluded for this offence.

Any person can be the perpetrator of all the forms of the offence of first – degree murder, and in terms of guilt, all the elements must be met in order for this offence to exist.

In terms of guilt, it is necessary that the perpetrator of the offence was sane, the moment that the court appreciates during the proceedings is the moment of the commission of the offence, which means that the perpetrator was able to understand the significance of his offence and to manage his actions. Sanity is determined from the findings of the expert neuropsychiatrist. From this finding it can be concluded whether there was sanity, or insanity (*Actiones liberae in causa*), that means, whether the perpetrator brought himself into a state of insanity (*Actiones liberae in causa*), by using illegal substances (drugs, alcohol), or whether the perpetrator was in a state of insanity at the time of committing the offence. If the perpetrator was in the state of insanity (*Actiones liberae in causa*), where he brought himself into this state, the court would consider this as an aggravating circumstance in the proceedings, and on this occasion, there must be the evidence which proves the intention that the perpetrator wanted to get drunk and commit the offence in that state. The concept of insanity (*Actiones liberae in causa*), is found in Article 24 of the Criminal Code, which states: “The guilt of the perpetrator of the offence who,

through the use of alcohol, drugs or in other ways, was brought into a state in which he could not understand the significance of his offence or manage his actions, is determined according to the time immediately before bringing himself into that state.” The sentence cannot be reduced to the offender who, under the circumstances from the Paragraph 1 of this Article, committed the offence in the state of significantly temporary insanity.”

Also, if, according to the findings of the experts, it was determined that the offence was committed by a person who was insane, (a person who was not aware of his offence and could not manage his actions), on the basis of the interpretations and the action of the insane perpetrator, it would be possible to qualify this as an unlawful act which is ordered by law afirst – degree murder in a cruel manner.

Certain sadistic characteristics of the personality are also present in a mentally ill person, which is enough to qualify the action of an insane person in this way.

“An insane person acts with intention, too. There is also his awareness of the act, admittedly, it is clouded, incorrect, deformed, and there is also the will created on that awareness. Therefore, it is about the intention in a natural sense, and not about the intention as a form of guilt” (Zlatarić, 1956, p. 160).

However, as far as the insanity is concerned, the fact how the perpetrator’s actions are qualified is not of great importance, because in these cases, the perpetrators are sentenced to the safety measure of mandatory psychiatric treatment and custody in a health institution, which is of the indefinite duration.

In Kurir (2022) it was announced that “the perpetrator killed his mother with an ax in the family home, where, by the decision of Higher Court in Novi Sad, the measure of mandatory psychiatric treatment and custody in a health institution was imposed. The indictment charges the perpetrator that on 2<sup>nd</sup> or 3<sup>rd</sup> June last year, in a state in which he was not capable of understanding the significance of his act, which means, in a state of insanity, in an insidious and cruel manner, he took the life of his mother with whom he lived in the same house. It is attributed to him that he took an ax from the utility room, approached the bed in which the unfortunate woman was lying, so that she could not see him, and without any reason hit the area of her head, but also the area of her hand that she raised, probably to defend herself, nine times with the ax. After suffering intense pain, she passed away a few minutes later.

After the cruel murder, her son wrapped the ax in the paper and hid it in the shed among piles of wood, then released gas into the house, locked it and left the scene by bicycle.”

## 2. First – degree murder in a cruel manner

In Article 114 paragraph 1 Point 1 of the Criminal Code it is ordered that there is one of the forms of committing first – degree murder – the murder in a cruel manner, which will be explained in more detail in this paper.

Namely, the murder in a cruel manner is the deprivation of life of another person, by which a victim undergoes excessive and unnecessary physical and psychological suffering and pain of great intensity. Since every deprivation of life is accompanied by the inflicting pain and causing fear, in this case, pain and suffering are inflicted with the aim of making the victim suffer as much as possible, so that they exceed the pain and suffering which accompany the ordinary murder according to their intensity and duration.

For the existence of this act it is necessary for the objectively cruel and horrific actions to be undertaken and that the victim is in a conscious state so that he experiences and undergoes the cruelty of these actions with great pain, fear and suffering. It is also necessary that the perpetrator of the act is aware of the cruel and inhuman acts that he willingly undertakes, by which he presented himself as a reckless, bestial and bloodthirsty man<sup>1</sup> (Atanacković, 1985, p. 135-136).

In the case of this offence which was committed in a cruel manner, it is necessary for qualifying circumstances, both subjective and objective ones to exist, which stand on the side of both the perpetrator and the execution of the offence itself (Ćirić, 2000, pp. 68).

- The subjective circumstance is related to the the perpetrator's personality
- The objective circumstance is related to the committed offence.<sup>2</sup>

The subjective circumstance is related to the reflection of the perpetrator's personality, which means, the lack of consideration towards the victim. The perpetrator must be aware of the fact that he causes the pain. He acts cold-bloodedly and he tortures the victim with pleasure, his cruelty consists of

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<sup>1</sup> If the perpetrator was aware that he inflicted dangerous injuries to the victim by the actions he undertook with the means suitable for the person to be deprived of his life, and if he was aware of molesting the victim during a long period of time, and that the victim suffered, this is a murder in a cruel manner (the judgement of the Supreme Court of Serbia 927/ 90).

<sup>2</sup> The basis for the qualification of the offence of the murder in a cruel manner lies not only in the way the act was committed, but also in the characteristic of the perpetrator's psychological state during the committing the act itself (the judgement of the Supreme Court of Kosovo Cr. case. 499/81).

insensitivity towards the torment, suffering and pain which are inflicted on the victim or of his own pleasure, enjoyment or of the pleasure of torturing the victim (Simić & Petrović, 1998, p. 24). The direct intention is necessary for this form of first – degree murder, which means that the perpetrator knows that with his action he accomplishes all the essential elements of the existence of the offence, and wants the execution of the offence, and as far as the consequence is concerned, he wants it to occur.

The question arises whether this act can be carried out with the possible intention. Bearing in mind that the perpetrator, as a rule, acts cold-bloodedly, and that he enjoys torturing the victim, this excludes any possible intention. Perhaps the opinion that the perpetrator sometimes inflicts severe physical injuries to the victim consciously, accompanied with severe pain and suffering, and that he is aware of the fact that by continuing the torture, he may cause the death of the victim, so he agrees to it, can be accepted. However, as a rule, the direct intention is needed for this form of first – degree murder (Stojanović, 2006, p. 20).

In order for this first – degree murder to exist, it is necessary that the victim was in the state to feel the suffering which was inflicted on him, for example, when the perpetrator stabs the victim several times, and the victim is in a conscious state, and the threshold of fear and pain is extremely high, where he fears for his own life and tries to defend himself, all of this represents the qualifying circumstances of this offence and “a cruel act must be undertaken before the completion of the fatal consequence caused by this action” (Bock, 2018, p. 43)

The massacre of the victim, after he has lost consciousness and does not feel all the suffering inflicted on him, is not a feature of this offence. In the proceedings the subsequent massacre or the torture of a person who is in an unconscious state is an aggravating circumstance which is assessed when determining the punishment, and cannot be assessed as the act of committing the offence of the murder in a cruel manner, because for this act it is necessary that the person who has been deprived of his life has to feel the pain and suffering, and the perpetrator has to enjoy them.

“Also, contrary to this understanding that it is necessary for the victim to be in a conscious state in which he suffers immeasurable pain, torment and suffering, for the existence of this act, in the legal theory you can also find the understanding according to which the cruel murder is possible even in the case of the victim who has already lost his consciousness, and does not feel the pain, provided that the method of taking his life represents the reckless, unscrupulous, gradual and cold-blooded killing of the helpless victim. In that

sense, there can be the cruel murder even when the victim has already been killed, so it is difficult to desecrate the corpse because this act also causes the increased horror and disgust, regardless of the fact that the victim did not feel the suffering and pain” (Čejović, 1986, p. 290).

Recklessness, as a special component of the perpetrator’s subjective attitude towards the act, implies the attitude of the perpetrator towards the murder, which puts him into a special category of the killers who are deprived of any sense of responsibility for his behaviour.

“Also, this form of the offence does not exist when the perpetrator wants to torture the victim or believes that he does that, if, objectively observed, his acts do not cause suffering to the person who is deprived of his life. In that case, the attempt of this offence is possible (Stojanović, 2014 p. 10).

As far as the objective circumstance of this offence is concerned, it represents the infliction of excessive or unnecessary suffering to the victim before he was deprived of his life. This suffering is “the one that goes beyond that suffering which accompanies every deprivation of life” (Stojanović, 2014, p. 9).

That excessive or unnecessary suffering is, for example, when 133 wounds were inflicted onto the victim in the form of stabs and cuts, and during their infliction the victim suffered physical and psychological pain of high intensity, which represents the objective element of cruelty” (The judgement of the Supreme Court of Serbia Cr. case. 1247/98).

First – degree murder in a cruel manner in the practice of the court is most often considered to be: The murder connected with the torture of the victim, accompanied with the use of fire or water, the murder through slow or long strangulation or suffocation, the murder by starvation, by not giving the food, water or necessary medicine or medical help (Jovašević & Ikanović, 2012, pp. 23-27).

In judicial practice the question arises whether the described pain and suffering should be objectively cruel, terrible, brutal, excessive, or the victim should directly subjectively experience the feeling in that way. In any case, when assessing whether there are such pain and suffering, the finding and opinion of forensic medicine experts (traumatology specialty) are of great help to the court.<sup>3</sup>

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<sup>3</sup> The objectification of the strength and intensity of the pain and suffering can be done on the basis of the injuries that cause that “great”, “above average” pain and they cause death in the end, which indicates that medical expert finding and opinion are of crucial importance in that case.

The expert does not declare himself about cruelty because that conclusion is made by the court, but he gives his opinion about the intensity and the duration of the pain and suffering which the victim suffered.<sup>4</sup>

In that way, in the proceedings against Marjanović, who was accused of having committed first – degree murder in a cruel manner which is incriminated in Article 114, paragraph 1, point 1 of the Criminal Code, and according to Euronews Serbia, (2022) “the court committee of the Higher Court in Belgrade sentenced Marjanović to a maximum sentence of 40 years in prison for the cruel murder of his wife. As it is stated, during the trial, the expert opinion showed that the killer had strong emotions towards the victim, when the manner and the intensity of the injuries were taken into account. It was also stated that the murder had been committed by luring the victim into the canal on the embankment and inflicting multiple injuries in the area of her head with a blunt object. The court considers that the defendant wanted to cover up the crime by reporting to the police that the injured party had disappeared and that he simulated concern then.

From this example we conclude that the defendant planned the murder, which he carried out with direct intent, and he was aware that the execution of it could have serious consequences, but he still wanted to carry it out. And by simulating the concern and by reporting the disappearance, he showed insensitivity, cold-bloodedness and calculation.

According to the current events, we have the examples where the execution of the offence of first – degree murder in a cruel manner also takes places through the organized crime, where the perpetrators of this offence are organized criminal groups, whose goal is to gain power and money, and as a consequence of these goals, first – degree murders are carried out.

We have an example which was published on the Mondo portal (2022), actually, the statements of the associate witnesses, which were presented at the main trial, and were related to the offence of first – degree murder, where it is mentioned that “the victim was first strangled with the hands, and that in the end it was done with a more humane approach, “by strangling the victim with a cable, and then by cutting his throat with a knife, and on that occasion a lot of blood came out.” This is one of the examples of how organized criminal groups carry out offences. Their characteristics are: insensitivity and

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<sup>4</sup> A forensic medical expert can provide his expert opinion only about the medical side of the problem, but he cannot get involved in the consideration of legal issues. He does not have professional qualification for the legal side of the problem and he cannot discuss about the intent of the perpetrator of the offence, cruelty, remorse, guilt, complacency, intention, negligence, etc. (Simić, 2007. p. 21).



inhumanity, unscrupulousness and gradual extinguishing of a human life, the torturing of victims by using fire and water, later, the massacring of the body by “the meat grinder”, so that there are no traces which prove that the offence was committed. Most often they take photos of their victims and then they forward them to other members of their group, boasting and proving their supremacy.

We also have the example of the statement of an associate witness who gave his statement at the main trial, and this information was published on the Internet portal of Informer, (2022), “the injured party was also taken to the house where the defendant, after several hours of torture, cut off his head with an ax. After that, he was minced and thrown into the Danube.”

The offence of first – degree murder in a cruel manner is one of the offences which is so characteristic of the organized crime, and it is committed by the organized criminal groups. The organized criminal groups are guided by the motto: “No body, no crime.”

“The activities of the organized crime become more developed every day, both in terms of scope and content. In addition, they are characterized by the increasing unscrupulousness, recklessness and violence of the criminals. This refers to all the forms of the organized criminal activities. The consequences of the organized crime are more destructive towards the values and the interests of the individuals, society, state, and international community. Besides operating in wider geographical areas more often, the criminal organizations do not limit their scope to certain “jobs”. The organized crime is infiltrated in almost all spheres of social and state life, so “the development of new crime business is realistically expected.” (Mijalković, Subošić & Bošković, 2011, p. 144).

### **3. Practical examples**

There are some practical examples where it is said that “the victim was killed in a cruel way when the two defendants overpowered her at the same time and beat her on the vital parts of her body during and after the rape. In order for them to satisfy their sexual urge, they tried to have sex with her, by took turns, and then both of them would continue to beat her on the vital parts of her body, which means that they hit her in the area of her neck below her chin and on her thorax, and on her head, as long as she gave the signs of life. From this we can clearly see that both defendants were aware that, by hitting the deceased woman on the vital parts of her body, they could take her life, as they wanted, because they hit her as long as she showed the signs of life.

As they held the hand over her mouth, which means that the first defendant suffocated her by constantly holding his hand over her mouth, and then by beating, according to the opinion of the expert, the deceased woman suffered great pain and fear of extreme intensity which lasted for at least 20 minutes. All of that indicates that the defendants deprived the deceased woman of her life in a cruel manner” (the judgement of the Supreme Court of Serbia Cr. case. 1442/99 of 17<sup>th</sup> April, 2001, Court Practice, Belgrade, no. 9/200, p. 16).

“The cruelty of the committed offence must have its objective side, which is reflected in the infliction of unnecessary suffering on the victim that exceeds the suffering that usually accompanies any deprivation of life, and its subjective component, which is reflected in the defendant’s awareness of torturing the victim and in his willingness to do so and therefore he acts in that way. The Supreme Court correctly found that the objective side of the cruelty of the execution of this offence is reflected in the infliction of unnecessary suffering on the victim that goes beyond the suffering that usually accompanies any murder, in addition to 20 stab wounds in the front part of the neck, thorax and abdomen, the defendant previously inflicted 37 shallow stab wounds which were 5 cm deep, in the front part of the neck, in the lower part of the thornax on the front side, on the front part of the abdomen, to the deceased woman, where the above-mentioned injuries were inflicted on her on several occasions when she felt pain and fear for her life and defending herself in an attempt to save herself, the injured party also received three grazes on her hands by grabbing the knife with which she was attacked by her bare hands, where, during the whole time of defending herself, she felt the maximum fear to the level of horror, because of the feeling of being threatened for her life, where by receiving each subsequent injury, until she lost consciousness, she felt even greater pain which increased the feeling of fear and threat for her own life, where the injured party felt the pain, suffering and fear for her own life for a long period of time, for the entire duration of the event which lasted almost the entire afternoon from the early hours in the morning” (the judgment of the Court of Appeal in Belgrade, Cr. Case 351/2012 of 19<sup>th</sup> April, 2012, the Bulletin of Higher Court in Belgrade, Belgrade, number 83/2013, pp. 14-15).

“Higher Court in Belgrade announced a verdict by which the defendant was found guilty because, during the night, he deliberately tried to take life of his wife in a cruel manner, in which process he was aware of the illegality of his act and wanted to carry it out, in such a way that, after an argument and physical attack on the injured party, she left the flat in which she lived with him, and went to the flat in which her children lived, with the intention of

escaping and avoiding the further confrontation with him, and during that time the defendant went to the nearby gas station where he bought gasoline in a large bottle of water, in the amount of 5,750 liters, he came to the flat where his wife was, he entered the building in such a way that a neighbour who was returning from a walk opened the front door for him, after that he went to the flat in which the injured party was, he rang the bell, then he banged on the door and because of that the injured party opened the door, and after a short discussion he poured the gasoline from the bottle on her with the statement: "I will go to prison, and you will burn in hell!", after which he lit the gasoline with a lighter, which he poured on the injured party, as a result of which the flame engulfed the injured party's body who in that way received severe, life-threatening bodily injuries, in the form of physical (thermal) injuries – burns of a mixed type, mostly of deep IIb and III degree, namely of the hairy part of the head, face, the left half of the neck, the front part of the thornax, neck, shoulders, and both arms (except for her hands), on the shoulders and upper arms, spread over about 45% of the surface of the body, as a result of which she suffered the pain of the highest intensity, in the range of unbearable, with the fact that the death of the injured party was prevented by the help of a neighbour who extinguished the fire from her body, while the defendant escaped from the scene using the commotion. By which he committed the offence of first – degree murder in an attempt. From Art. 114. Par. 1. Point 1 of the CC concerning the art. 30 of the CC" (the verdict, Higher Court in Belgrade, the Republic of Serbia, Cr. case 61/15).

"Higher Court in Belgrade announced a verdict by which the defendant was found guilty because, in the state of being sane and aware of his act and its illegality, the execution of which he wanted, according to the previous agreement and plan with his lover, and in order for them to continue their emotional relationship unhindered, he deprived her husband of his life in a cruel and treacherous manner in such a way that he, knowing that he was sleeping, and according to the previous plan and agreement, together with her he came to the front door, entered the flat with her, during which they entered the room where the injured party was sleeping, and near him there was his minor son, and his lover put the scarf over the injured party's mouth, then a pillow, when the injured party woke up he tried to defend himself, but the defendant pressed the injured party with his arms and leg, so that he could not move, after which the defendant stabbed him with the handle of a knife that he had previously taken out of his pocket and unfolded it, hit him on the head, after which, together with his lover, he made 33 injuries in total, out of which 24 were stab wounds with a knife, of which the defendant personally inflicted

at least four stab wounds, of which, one in the area of the neck and three in the area of torso, aware that the injured party suffered the pain and suffering of high intensity, during which each of these stab wounds represented a serious and life-threatening bodily injury, which together with other injuries due to bleeding caused the death of the injured party, and then, in order for him to cover up the committed crime, he staged a break-in in the family's flat, in such a way that the defendant broke down the front door from the outside with the strength of his body, and then left the country in a passenger vehicle. In this way, he committed the offence of first – degree murder in complicity from Art. 114, point 1 of the CC concerning the art. 33 of the CC.” (the verdict, Higher Court in Belgrade, the Republic of Serbia, Cr. case 12/17).

#### 4. Conclusion

Bearing in mind that the right to life is a universal human right, its protection is carried out both at the national and international level. The right to life is an elementary right, and the society has an interest to protect the lives of its citizens, in which process that protection is achieved independently of the will of the individual. First – degree murder in a cruel manner is one of the most serious offences, which is aimed at endangering the life and body of an individual. Primarily because of its cruelty, callousness, insensitivity towards the pain and suffering of the victim and their great desire for the victim to feel all the anger and depravity hidden in the perpetrator of this offence. In the paper we were able to see what the qualifying circumstances that were characteristic of the offence were. Since premeditation is necessary in terms of guilt, we have seen from the examples that even the insane people are not excluded from the punishment for the commission of this offence. We drew a parallel between the ordinary murder and first – degree (qualifying) murder, and named some practical examples. We have also mentioned how much this offence is represented in the organized crime and how the organized criminal groups carry out these offences, which can be extremely monstrous and logically not understandable, to an ordinary, normal person. On the part of the law, for this criminal offence which belongs to the group of the Offences against life and body, there are the adequate punishments which accompany its execution, considering the fact that the threatened punishment is one of the most severe ones, which includes life imprisonment, too, and there is no possibility of mitigating the punishment, and with each murder, the society loses one member of its community.

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# **TEŠKO UBISTVO NA SVIREP NAČIN**

**REZIME:** Teško ubistvo spada u red najtežih krivičnih dela za koja su zaprećene najteže kazne. U svojoj osnovi, teška ubistva imaju sva obeležja koja su zajednička za svako ubistvo, tj. protivpravno lišenje života drugog lica, ali je ubistvo praćeno nekom posebnom, kvalifikatornom okolnošću koja ga čine težim i društveno opasnijim od običnog ubistva. U ovom radu ćemo se osvrnuti i pobliže objasniti teško ubistvo na svirep način, koje je kompleksno krivično delo gde svirepost s jedne strane podrazumeva lišenje života žrtve na način da joj se stvaraju preterani bolovi i patnje, dok je, s druge strane, neophodno da učinilac pokaže i jedan poseban emotivni odnos prema tim bolovima i patnjama (u vidu zadovoljstva, uživanja u njima, odsustvu sažaljenja i sl.). Osvrnućemo se na tezu da li krivično delo teškog ubistva izvršenog na svirep način može biti planirano, da li se za pokušaj kažnjava. Napravićemo paralelu između krivičnog dela ubistva i krivičnog dela teškog ubistva, i da li je ovo krivično delo izvršeno na savestan ili nesavestan način. Takođe ćemo se osvrnuti i na organizovani kriminal i koliko je često izvršenje ovakvog krivičnog dela u kriminalnim grupama. Cilj istraživanja je da se upoznamo sa značenjem i kvalifikatornim okolnostima koje su karakteristične za ovo krivično delo, te da vidimo kako se u praksi ovo krivično delo kvalifikuje, koje su sankcije, i kako to sud u postupku ceni određene nalaze i mišljenja, te šta su otežavajuće okolnosti koje su merodavne za određivanje visine kazne.

**Ključne reči:** *krivično delo teško ubistvo, svirepost, ubistvo, organizovani kriminal, zakon.*

## References

1. Atanacković, D. (1985). *Krivično pravo: poseban deo* [*Criminal Law: Special Part*]. Beograd: Novinsko-izdavačka ustanova, Službeni list SFRJ
2. Bećirović, E. (2014). Krivično delo ubistvo u zakonodavstvu Republike Srbije [The Offence of Murder in the Legislation of the Republic of Serbia]. *Pravne teme*, 2(4), pp. 200-215
3. Bock, D. (2018). *Strafrecht: Besonderer Tell 1–Nichtvermogensdelikte*. Berlin
4. Čejović, B., & Kulić, M. (2014). *Krivično pravo* [*Criminal Law*]. Novi Sad: Pravni fakultet za privredu i pravosuđe, Univerziteta Privredna akademija
5. Čejović, B. (1986). *Krivično pravo u sudskoj praksi: posebni deo* [*The Criminal Law in the Court Practice: Special Part*]. Beograd: Jugoslovenski zavod za produktivnost rada
6. Ćirić, J. (2000). Ubistvo na svirep ili podmukao način [The Murder in a Cruel or Insidious Manner]. *Pravni život*, 49(9), pp. 59-80
7. Euronews Serbia. (2022). Sud obrazložio presudu Marjanoviću: Nije u pitanju savršen zločin, već teško ubistvo [The Court Explained the Verdict to Marjanović: It Is Not about Being a Perfect Crime, But First – Degree Murder]. Downloaded 2022, October 25 from <https://www.euronews.rs/srbija/aktuelno/56569/sud-obrazlozio-presudu-marjanovicu-nije-u-pitanju-savrsen-zlocin-vec-tesko-ubistvo/vest>
8. Informer, (2022). Zadavljeni, zaklani, samleveni i bačeni u Dunav! Lalić rasvetlio čak 20 mafijaških ubistava! Ovo su žrtve Belivukovog klana [Strangled, Slaughtered, Minced and Thrown into the Danube! Lalić Shed Light onto as many as 20 Mafia Murders! These Are the Victims of Belivuk's Clan]. Downloaded 2023, January 12 from <https://informer.rs/hronika/vesti/748337/veljko-belivuk-marko-miljkovic-likvidacije-zrtve>
9. Jovašević, D. & Ikanović, V. (2012). *Krivično pravo Republike Srpske: posebni deo* [*The Criminal Law of the Republic of Srpska: Special Part*]. Banja Luka: Fakultet pravnih nauka panevrepkog univerziteta "Apeion"
10. Jovanović, Lj., Đurđić, V., & Jovašević, D. (2004). *Krivično pravo: posebni deo* [*Criminal Law: Special Part*]. Beograd: Službeni glasnik Republike Srbije

11. Kurir, (2022). Zločin u Bačkoj Palanci: Ubio majku sa 9 udaraca sekirom u glavu, poslat na psihijatrijsko lečenje [The Crime in Bačka Palanka: He Killed His Mother with 9 Blows onto the Head with an Ax, He Was Sent for Psychiatric Treatment]. Downloaded 2023, January 20 from <https://www.kurir.rs/crna-hronika/3859653/zlocin-u-backoj-palanci-ubio-majku-sa-9-udaraca-sekirom-u-glavu>
12. Krivični zakonik [Criminal Law]. *Službeni glasnik RS*, br. 85/05, 88/05 – ispr., 107/05 – ispr., 72/09, 111/09, 121/12, 104/13, 108/14, 94/16 i 35/19
13. Mondo, (2022). Čuo sam da se muči, davljenje je trajalo: Uznemirujuće izjave Lalića – Ljepoju razotkrila slika na telefonu. [I Heard that He Was Struggling, the Strangulation Continued: Disturbing Statements of Lalić – Ljepoja Was Exposed by a Photograph in His Phone]. Downloaded 2022, December 12 from <https://naslovi.net/2022-11-08/mondo/cuo-sam-da-se-muci-davljenje-je-trajalo-uznemirujuce-izjave-lalica-ljepoju-razotkrila-slika-na-telefonu/31950696>
14. Mijalković, S., Subošić, D., & Bošković, G. (2011). *Suprotstavljanje organizovanom kriminalu* [The Opposition to the Organized Crime]. Beograd: Kriminalističko – policijska akademija
15. Simić, I., & Petrović, M. (1998). *Krivični zakon Republike Srbije: praktična primena* [The Criminal Code of the Republic of Serbia: practical Application]. Beograd: Poslovna politika
16. Simić, M. (2007). *Sudskomedicinsko veštačenje* [Forensic-medical expertise]. Novi Sad: Sudska medicina
17. Stojanović, Z. (2006). *Krivično pravo: opšti deo* [Criminal Law: General Part]. Beograd: Big štampa
18. Stojanović, Z. (2014). *Krivično pravo: opšti deo* [Criminal Law: General Part]. Beograd: Pravni fakultet Univerziteta u Beogradu
19. Zlatarić, B. (1956). *Krivični zakonik u praktičnoj primjeni: kritički pregled judikature, I. svezak: opšti dio* [The Criminal Code in Practical Application: a Critical Review, Volume I: General Part]. Zagreb: Narodne novine