

**SEMANTIC REDUPLICATION
AND CUMULATIVE CONCURRENCE
OF PROVISIONS OF CRIMINAL LAW
IN THE FIELD OF FORGERY
OF A DOCUMENT AND ELECTION
AND REFERENDUM DOCUMENTS**

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1. INTRODUCTION

The crime of forgery of a document is regulated not only in Article 270 §1 of Chapter XXXIV of the Criminal Code (CC) entitled Offences against Credibility of Documents. Also Article 248(3) CC of Chapter XXXI dealing with offences against elections and referenda stipulates liability for forgery of documents, although these are strictly determined types.

Due to the fundamental significance of elections, the issue of the protection of universal suffrage cannot be overestimated. Although, according to the data provided by the General Headquarters of the Police, an act classified in Article 248 CC constitutes a marginal phenomenon in the penal policy, it is not a scarce number of proceedings but their nature¹ that is important because it infringes the principle of free elections and referenda and thus, the freedom to choose representatives of the society (authorities), to conduct an electoral campaign and to express opinions and preferences in the course of voting.²

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¹ For more, see: <http://statystyka.policja.pl/st/kodeks-karny/przestępstwa-przeciwko-12/63596,Falszowanie-dokumentow-wyborczych-art-248.html> [accessed on 21.07.2017].

² A. Hess, *Spoleczni uczestnicy medialnego dyskursu politycznego w Polsce. Mediatyzacja i strategie komunikacyjne organizacji pozarządowych* [Social actors of political discourse in the Polish media. Mediatization and communicative strategies of non-governmental organizations], Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków 2013, p. 18; M.A. Nowicki, *Wokół Konwencji Europejskiej*.

The article aims to draw attention to a dual nature of the offence of forgery of elections and referenda-related documents. The author strives to present the relationship and establish the logical link between criminal acts laid down in Article 248(3) CC and Article 270 §1 CC. She also analyses the features of such acts and the opinions in the doctrine. Due to the fact that the construction of Article 248(3) CC raises some interpretational problems connected with the object of an act, the article is an answer to the question whether it is necessary to differentiate between documents and election-related documents, and whether there are normative reasons to do so.

Moreover, in order to select the legislator's message, some separate comments are devoted to the useful, though partial, semantic reduplication. In other words, the author analyses the repetition of normative content in the two discussed provisions.

In this research context, the article also discusses the provisions of the Act of 10 February 2017, which introduces new types of offences against credibility of documents. The extended scope of criminalisation concerned the acts of physical and intellectual forgery of an invoice. The amendment covered not only the content of Articles 270a CC and 271a CC but also introduced Article 115 §14a CC, in which there is a legal definition of this business document.

The article adopts an interpretation *ratio legis* making it possible to verify the legislator's real intention and a linguistic interpretation allowing the analysis of linguistic redundancies. To some extent, the author also makes use of the method of analysing the function and aim of a legal provision.

1.1. MUTUAL RELATION BETWEEN ARTICLES 248(3) CC AND 270 §1 CC

Although there is no explicitly expressed definition of document forgery in Polish legal regulations, the analysis of interpretational conceptions leads to a conclusion that there are three types of it. Material forgery consists in a perpetrator's influence on the substance of a document in order to give it the features of authenticity. Intellectual forgery is also called certifying an untruth and it consists in an authorised entity's interference in the content of a document that has legal significance. Indirect forgery is based on obtaining attestation of an untruth under false pretences. It is important, however, that it must be performed by deceitfully misleading an authorised entity and it constitutes a type of intellectual forgery.³

Due to the limits of the issues under examination, only a perpetrator's conduct laid down in Article 248(3) CC and Article 270 §1 CC is analysed. Thus, the objective features of intellectual forgery of documents remain outside the scope of this paper.

Komentarz do Europejskiej Konwencji Praw Człowieka [On the European Convention. A commentary on the European Convention on Human Rights], Wolters Kluwer Business, Warsaw 2013, p. 903.

³ J. Błachut, *Prawne konsekwencje tworzenia prac dyplomowych na zlecenie* [Legal consequences of preparing diploma theses on order], *Prokuratur i Prawo* No. 5, 2005, p. 109 and *ibid.*, *Dokument jako przedmiot ochrony prawnokarnej* [A document as an object of protection under criminal law], Wolters Kluwer Polska, Warsaw 2011, p. 97.

The authenticity of a document meaning its originality is an interest protected in the provisions penalising this type of a prohibited act. Prohibited acts of this category are regulated in Article 270 §1 CC, which classifies the offence of counterfeiting, altering or using a document referred to in Article 115 §14 CC. The motive of the practice is most often financial profit and a perpetrator commits the offence to use the document as authentic. Making comments on legal grounds for forgery prosecution, it is worth mentioning that counterfeiting is the development of a fake document and creating some semblance of its authenticity. Altering means the introduction of changes in the text of an already existing document by an unauthorised person, with some semblance of authenticity and with the use of which its content changes its legal significance. The last term shall be understood as “submission of a document to another person or a public entity in order to affect them legally”.⁴

At the same time, it should be emphasised that, as a result of the amendment of 10 February 2017 to the Criminal Code, the catalogue of offences against credibility of documents was extended.⁵ The aim was to improve the fight against the practice of forging business documents, especially groundless claiming VAT return, i.e. appropriation of taxes that should be paid to the Treasury.

The amendment consisted in the introduction of a special type of material forgery of invoices (Article 270a CC) and aggravating penalties for such offences. Another issue, however going beyond the scope of this article, was the introduction of the concept of intellectual forgery of invoices (Article 271a CC).⁶ Moreover, in order to characterise prohibited acts, beside the legal definition of a document in Article 115 §14 CC, the legislator distinguished a concept of an invoice (Article 115 §14a) as a tool used to curtail the state income.⁷

The offence characterised in Article 270a CC, like standard material forgery of documents, covers three activities undertaken in order to “use an invoice as an authentic one with regard to circumstances that may have significance for determination of tax liabilities”.⁸ It includes counterfeiting, altering and using. There is also an aggravated type “due to great value of goods or services, or the commission of the crime to obtain a permanent source of income”.⁹ The legislator also laid down different sanctions to be applied in cases of lesser significance.¹⁰

⁴ Citation from: Appellate Court judgement of 12 March 2015, II AKa 199/14 [http://orzeczenia.lodz.sa.gov.pl/content/\\$N/15250000001006_II_AKa_000199_2014_Uz_2015-03-12_001](http://orzeczenia.lodz.sa.gov.pl/content/$N/15250000001006_II_AKa_000199_2014_Uz_2015-03-12_001) [accessed on 21.07.2017].

⁵ See, Journal of Laws [Dz.U.] of 2017, item 244.

⁶ Apart from those changes, the Criminal Code amendment also influenced the content of Article 237 of the Criminal Procedure Code and Act on the Police, Central Anticorruption Bureau, Border Guard, Military Police and fiscal control entities. As a result, the institutions were given a possibility of conducting operational and surveillance activities as well as tapping and recording telephone conversations in case of most serious types of prohibited acts.

⁷ In accordance with it, the concept should be interpreted as a document referred to in Article 2(31) of the Act of 11 March 2004 on VAT (Journal of Laws [Dz.U.] of 2016, item 710, as amended).

⁸ Citation from Article 270a CC.

⁹ Citation from *ibid.*

¹⁰ See, Article 270a §3 CC.

The introduction of separate characteristics for unlawful conduct consisting in counterfeiting, altering and using forged or altered invoices makes this prohibited act type penalised more strictly than before. It is worth adding that legal regulations concerning the features of the action of counterfeiting or altering are included not only in Article 270 CC, Article 270a CC or Article 248(3) CC, but also in Article 310 §1 CC. In accordance with its content, the legislator penalises counterfeiting money, media of exchange, documents entitling to obtain a sum of money or obliging to pay capital, interest, share in profits or recognising participation in a partnership, as well as erasing signs from money or another legal tender.¹¹

In accordance with Article 248(3) CC, the legislator penalises crimes consisting in altering or counterfeiting reports or other election- or referendum-related documents. What is worth noticing is the fact that a perpetrator commits the offence in connection with presidential, parliamentary and local self-government elections as well as election to the European Parliament.

There is no relation of exclusion, also called a relation of generality-speciality, between Article 248(3) CC and Article 270 §1 CC. As S. Kowalski rightly indicates, Article 248(3) CC is a more precise regulation of “the limits of the subjective side and taking into consideration both aspects of intention”. Although the type of intent does not occur explicitly, it can be assumed that both forms are possible, i.e. direct and oblique intent. In the former case, a perpetrator has a purposeful intent to infringe a legal interest in the form of legality of proper performance of elections. In the latter case, a perpetrator allows individuals to infringe normative regulations and unlawfully influence the implementation of elections, and gives his consent. On the other hand, Article 270 §1 CC, because of the way in which the motive behind a perpetrator’s action is formulated (“whoever in order to use as authentic”), the legislator takes into account only direct intent with a specific purpose.¹² However, the use of forged documents remains outside the scope of features laid down in Article 248(3) CC.

Despite the similarity of regulations, it is not possible to state that activities of one type are included in the other. Unlawfulness of conduct in the field of material forgery of documents laid down in Article 270 §1 CC was determined in an alternative way and consists in counterfeiting, altering or using them. On the other hand, the penalised conduct laid down in Article 248(3) CC is limited “only” to counterfeiting or altering election-related documents. In other words, there is no exclusion of assessment quantity resulting from the principle of being special.

In the case analysed, the consumption rule does not apply, either, because, in Article 248(3) CC, the legislator extends the individual object of protection to other legal interests than those resulting from Article 270 §1 CC. In case of the former, “the appropriate, in compliance with the election laws, course of elections

¹¹ See, Article 310 §1 CC.

¹² Citation after S. Kowalski, *Karnoprawna ochrona wykazu podpisów wyborców w wyborach samorządowych* [Criminal law protection of a voters’ list in local self-government elections], *Prokuratura i Prawo* No. 9, 2014, p. 75. Also see, A. Spotowski, *Pomijalny (pozorny) zbieg przepisów ustawy i przestępstwo*, *Wydawnictwo Prawnicze* [Eliminable (apparent) concurrence of the statutory provisions and offences], Warsaw 1976, p. 66 ff.

to the Sejm, Senate, the European Parliament, of the President of the Republic of Poland, local self-government entities and the course of a referendum” constitutes a protected interest. In case of the latter, “credibility of a document and certainty of legal transactions” do.¹³ Moreover, statutory penalties laid down in Article 270 §1 CC are evidently higher.¹⁴

As it has already been said, the typical object of protection is different, too. In case of the former, it safeguards “electoral rights of citizens and social interest expressed in elections and referenda carried out in compliance with the principles of democracy”, and in case of the latter, “credibility of documents meaning their genuineness and authenticity”.¹⁵ This excludes implied (also called silent) subsidiarity.

It can be assumed that there is a concurrence of the two types of offences, i.e. material forgery of documents under Article 115 §14 CC and material forgery of “reports or other documents related to elections or referenda”. Thus, while it may and should be assumed that every counterfeiting or altering of “reports or documents related to elections or referenda” will also match the features of counterfeiting or altering a document, a reverse relationship does not take place.

Therefore, we deal with a cumulative concurrence of statutory provisions because one act matches the features of two or more crimes. A. Spotowski’s opinion correlates with this stand. He notices that “a concurrence of statutory provisions results from the fact that a few provisions describe the same aspect of human conduct from a different perspective, and, consequently, they compete with one another when this conduct is assessed. In some sense, it is a concurrence of assessments of the same event”.¹⁶

Article 11 §1 CC is a normative basis of the concurrence of the statutory provisions. In accordance with it, the same act may constitute only one crime. As a result, in accordance with cumulative classification of an act, a perpetrator committing forgery of election- or referendum-related documents should be convicted for this crime but the classification of the act should include both infringed provisions, i.e. Article 270 §1 CC and Article 248(3) CC. At the same time, pursuant to Article 11 §3 CC, a court shall impose a penalty based on the provision envisaging the most severe punishment, i.e. Article 270 §1 CC.

¹³ First citation after R.A. Stefański, *Art. 248 Kodeks karny. Komentarz* [Article 248 of the Criminal Code. Commentary], 3rd edition, 2017, System Informacji Prawnej Legalis, second citation after L. Gardocki, *Art. 248 k.k.* [Article 248 CC], [in:] *Przestępstwo przeciwko państwu i dobrom zbiorowym, System prawa karnego* [Crime against the state and collective interests. Criminal law system], Vol. 8, 2013, System Informacji Prawnej Legalis (b/n/s).

¹⁴ S. Kowalski, *Karnoprawna ochrona...* [Criminal law protection...], pp. 75–77 and A. Grześkowiak, K. Wiak, *Kodeks karny. Komentarz* [Criminal Code. Commentary], 4th edition, 2017, System Informacji Prawnej Legalis (b/n/s), attention should be drawn to that, too.

¹⁵ Citation after L. Gardocki, *Art. 248 k.k.*... [Article 248 CC...] (b/n/s).

¹⁶ A. Spotowski, *Pomijalny (pozorny) bieg...* [Eliminable (apparent) concurrence...], p. 42.

1.2. ARTICLE 248(3) CC AS AN EXAMPLE OF A PARTIAL STATUTORY *SUPERFLUUM*

The legislator laid down a requirement in Article 11 §2 CC, according to which the placement of the same description of a perpetrator's conduct in two sanctioning norms is a constitutive feature of the construction of a cumulative concurrence of statutory provisions.¹⁷ Due to the fact that, in the system of legal acts, there is a lack of a rule prohibiting the repetition of fragments of provisions, the situation should not be treated as carelessness but "legal assessment of an act from the perspective of a few normative patterns" in order to avoid the legal vacuum.¹⁸

One can notice the justification for such a solution mainly in penal legislative tradition expressed in the principle *nullum crimen sine lege certa*. It is accompanied by intent to "explicate, strengthen or precisely determine significant events in a given communication situation".¹⁹ Semantic reduplication of a legal text at the descriptive and directive level may be the reflection of this intent.²⁰

In alia verba, the regulation resulting from Article 248(3) CC copying the content of Article 270 §1 CC constitutes an example of a statutory *superfluum*. It must be noticed, however, that this *superfluum* is partial because the provision of Article 248(3) CC constitutes a repetition of only a fragment of Article 270 §1 CC.²¹

In order to prove the existence of this excessiveness, it is worth conducting a semantic analysis of doubling phrases as well as their closest surrounding sentence context. Both types of offences are classified as common crimes (*delicta communiae*), which is indicated by the legislator's use of a pronoun "whoever" without further determination of the subject of criminal liability. However, due to "the narrowed range of perpetrators" who can commit an offence under Article 248(3) CC, there are opinions in the discussion that it is an individual perpetrator's crime.²² Most often, it will be one who is interested in a particular result of an election or a referendum. Also M. Jachimowicz draws attention to this fact and he includes in this category, inter alia: "a candidate running in the election, his/her party colleague, a relation or his party or electoral committee supporter, an electoral or financial representative

¹⁷ These elements are also typical of the construction of an ideal or eliminable concurrence although in case of the former, also other premises must be met. For more, see: G.J. Artymiak, *O konstrukcji zbiegu idealnego – uwagi na tle uchwały siedmiu sędziów Sądu Najwyższego z dnia 24 stycznia 2013 r. (I KZP 19/12)* [On the construct of an ideal concurrence – comments with reference to the resolution of seven judges bench of the Supreme Court of 24 January 2013 (I KZP 19/12)], LEX No. 1252697, OSNKW 2013/2/13, OSP 2013, No. 7–8/84.

¹⁸ Citation after: *ibid.*, p. 9.

¹⁹ Citation after M. Kłodawski, *Superfluum i nadwyżki znaczeniowe jako przykłady redundancji tekstu prawnego* [Superfluum and semantic excessiveness as examples of redundancy in the legal text], *Archiwum Filozofii Prawa i Filozofii Społecznej*, 2013/2, p. 119.

²⁰ *Ibid.*, p. 48.

²¹ *Ibid.*, p. 47.

²² For more, see: L. Pilarczyk, *Istota przestępstw indywidualnych* [Essence of individual crimes], *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, Year LXXVI Book 4, 2014, p. 190 and W. Kozielowicz, *Rozdział IX. Przestępstwa przeciwko wyborom i referendum* [Chapter IX. Crimes against elections and referenda], *System Informacji Prawnej Legalis 2015* (b/n/s).

of the electoral committee, a member of an election or referendum commission and a returning officer".²³

Having mentioned those objections, it is necessary to state that both regulations do not enact any limitations concerning natural persons who may commit prohibited acts.

In Article 270 §1 CC, the legislator indicates a crime with the "special motive", i.e. an act with direct intent and a specific purpose ("with the purpose of using it as authentic").²⁴ On the other hand, in Article 248(3) CC, the legislator does not indicate intent accompanying forgery of election or referendum documents but circumstances of the act ("in connection with elections/referendum"). Then, the legislator enumerates all possible types of elections ("to the Sejm, Senate, election of the President of the Republic of Poland, local elections or referendum").

Based on the two provisions, it is clearly seen that those offences are multi-variant in nature. In Article 270 §1 CC, apart from material forgery, i.e. counterfeiting and altering documents, the legislator also penalises "using as authentic", and in Article 248(3) CC, the legislator also takes into consideration "destroying, damaging, hiding". Material forgery of documents in the criminal law meaning carries an alternative penalty, i.e. a fine, restriction of liberty or deprivation of liberty for a period from three months up to five years. On the other hand, forgery of material election or referendum documents carries a penalty of deprivation of liberty for up to three years.

As it has been claimed above, Article 248(3) CC constitutes an example of a partial *superfluum*. The phrases that are repeated are: "whoever", "counterfeits or alters", "a document", i.e. fragments concerning a perpetrator, an act and the object of that act. However, if, apart from the descriptive analysis of the legal text, one looks at "the broader context than the one determined by morphological and semantic criteria", thus the directive analysis, assuming axiomatic rationality of the legislator, it becomes obvious that those repetitions, and even multiplicity of their uses and meaning, make it possible to implement some essential objectives determined in the typical object of protection. In other words, the linguistic and systemic (directive) redundancy plays an important role in Article 248(3) CC. Due to considerable distinctiveness of the object and nature of this crime, it seems unjustified to associate this form of forgery with the crime of common forgery of documents laid down in Article 270 §1 CC.²⁵ Repetition does not lead to a conflict between norms but to strengthening one norm before the other and to safeguarding stability and clarity of law.

²³ Citation after M. Jachimowicz, *Przestępstwo przeszkadzania wyborom (art. 249 k.k.)* [Crime of interfering with elections (Article 249 CC)], *Wojskowy Przegląd Prawniczy* No. 1-2, 2012, p. 89.

²⁴ For more on crimes with specific purpose *sensu stricto*, i.e. committed "with the purpose of" or "for the purpose of", see S. Frankowski, *Przestępstwo kierunkowe w teorii i praktyce* [Crime with specific purpose: theory and practice], Wydawnictwo Prawnicze, Warsaw 1970, p. 29.

²⁵ See, G. Pieszko, *Spoleczno-prawne aspekty penalizacji fałszowania dokumentów* [Social and legal aspects of penalisation of document forgery], *Studia Prawnoustrojowe* No. 29, 2015, p. 174.

1.3. DISPUTE OVER A DOCUMENT IN THE CRIMINAL LAW MEANING AND AN ELECTION OR REFERENDUM DOCUMENT

To consider the issue, it is necessary to point out doubts that occur in connection with determination of the object of an act under Article 248(3) CC, i.e. an election document. Due to the prohibition of using extended interpretation in criminal law to a perpetrator's disadvantage and based on a linguistic interpretation, which constitutes one of the most important interpretational methods, it can be assumed that the concept of an election document has a narrower meaning than a document. In other words, an election document is a term within the scope of the concept of a document but does not exhaust it.

A document in the meaning of criminal law is a very broad term, which covers any object or recorded information carrier, in connection with which there is a given law, or which, because of its content, constitutes legal evidence, legal relationship or the circumstance that is legally significant.²⁶ As a result, it carries obligations as well as rights concerning social relations regulated in various fields of law.²⁷

The legislator has underestimated the issue of election or referendum documents because both the Criminal Code and the Election Code do not contain their definition. The term "other election or referendum documents" is very general and in correlation with the lack of definition may generate interpretational differences in the doctrine and in the judicature.²⁸

However, what R.A. Stefański and M. Królikowski point out, it is usually assumed that the object of an act will refer to all documents "connected with elections or referenda" and in "some forms of acts specified as a list of candidates or voters, reports, ballots, lists of citizens nominating a candidate or initiating a referendum with their signatures".²⁹ Also A. Wąsek draws attention to that and argues that reports include mainly "reports concerning registration of candidates (lists of candidates), reports on voting and reports on election".³⁰

It is necessary to approve of the above list, although it needs to be defined more precisely. It should be assumed that the category also includes electronic data carriers containing voting results, lists of voting results in a constituency, auxiliary sheets

²⁶ Article 115 §14 of the Act of 6 June 1997: Criminal Code (Journal of Laws [Dz.U.] of 1997 No. 88 item 553).

²⁷ For more, see: J. Piórkowska-Flieger, *Prawne i społeczne uzasadnienie karalności fałszu dokumentu* [Legal and social justification for punishability of document forgery], *Studia Iuridica Lublinensia* No. 1, 2003, p. 146.

²⁸ For more, see S. Kowalski, *Karnoprawna ochrona...* [Criminal law protection...], pp. 75–77.

²⁹ Both citations after: R.A. Stefański, *Art. 248 Kodeks karny...* [Article 248 of the Criminal Code...] (b/n/s) and M. Królikowski, R. Zawłocki (ed.), *Kodeks karny. Część szczególna. Tom II. Komentarz do artykułów 222–316* [Criminal Code. General part. Vol. II: Commentary on Articles 222–316], 1st edition, 2013, System Informacji Prawnej Legalis (b/n/s).

³⁰ A. Wąsek, R. Zawłocki, *Art. 248, [in:] Kodeks karny. Część szczególna. Komentarz do artykułów 222–316* [Criminal Code. Specific part. Commentary on Articles 222–316], 4th edition, 2010, System Informacji Prawnej Legalis (b/n/s).

that the Electoral Committee members use to calculate the results in a constituency, resolutions, announcements and regulations issued by the Committee.³¹

The conception that an election and referendum document is included in the catalogue of documents in the criminal law meaning and referred to in Article 115 §14 CC, which is established in the doctrine and case law, should be recognised as right and convincing.

2. CONCLUSIONS

An electoral act is not only a constitutional right to exercise active electoral rights but also a mechanism necessary for appropriate functioning of the state governed by law and its representative bodies. Election-related offences often influence voting results and contribute to disorganisation of public life. Thus, due to that, although actual forms of criminal conduct may be different, the protection of electoral documents is a fundamental issue.

By introducing the regulation laid down in Article 248(3) CC, the legislator normatively emphasised another object of protection. In Article 270 §1 CC, it is truthfulness and authenticity of documents directly translating into efficiency of functioning and safety of legal transactions, and on the other hand, in Article 248(3) CC, it is reliability and authenticity of elections.

A criminal act committed under Article 248(3) CC may be considered a partial statutory *superfluum* because matching one of the features of material forgery is also regarded as the type of conduct exhausting the features of other offences, and there is a possibility of a cumulative concurrence with offences against documents and election- and referendum-related documents.

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³¹ Cited after: A. Sokala, B. Michalak, P. Uziębło, *Leksykon prawa wyborczego i referendalnego oraz systemów wyborczych* [Lexicon of election and referendum law and electoral systems], Wolters Kluwer Business, Warsaw 2013, p. 41.

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SEMANTIC REDUPLICATION AND CUMULATIVE CONCURRENCE OF PROVISIONS OF CRIMINAL LAW IN THE FIELD OF FORGERY OF A DOCUMENT AND ELECTION AND REFERENDUM DOCUMENTS

Summary

The article is an attempt to address some controversial issues in the doctrine and in case law, and occurring in the context of the relationship and logical relation between material forgery of documents laid down in Article 270 §1 CC and material forgery of election and referendum-related documents under Article 248(3) CC. As a result, the major part of the article constitutes a discussion of the legal nature of both criminal acts, the typical and individual object of protection of each of them and the scope of the concepts of a document, and an election and referendum document. Special attention is drawn to a cumulative concurrence of statutory provisions and a partial and useful statutory *superfluum*.

Keywords: semantic reduplication, description, redundancy, statutory provisions concurrence

REDUPLIKACJA SEMANTYCZNA I KUMULATYWNY ZBIEG PRZEPISÓW USTAWY KARNEJ W ZAKRESIE FAŁSZERSTWA MATERIALNEGO DOKUMENTU ORAZ DOKUMENTÓW WYBORCZYCH I REFERENDALNYCH

Streszczenie

Niniejszy artykuł stanowi próbę znalezienia odpowiedzi na sporne kwestie obecne zarówno w doktrynie, jak i w orzecznictwie, a wyłaniające się na tle relacji oraz stosunku logicznego między materialnym fałszerstwem dokumentów stypizowanym w art. 270 §1 k.k. oraz materialnym fałszerstwem dokumentów wyborczych i referendalnych z art. 248 pkt. 3 k.k. W konsekwencji istotną część opracowania tworzą rozważania nad charakterem prawnym obu czynów przestępnych, rodzajowym i indywidualnym przedmiotem ochrony każdego z nich oraz zakresem pojęciowym terminu dokument oraz dokument wyborczy *item* referendalny. Szczególną uwagę poświęcono też kumulatywnemu zbiegowi przepisów ustawy oraz częściowemu, użytecznemu *superfluum* ustawowemu.

Słowa kluczowe: reduplikacja semantyczna, opis deskryptywny, redundancja, zbieg przepisów ustawy