Teka Komisji Prawniczej PAN Oddział w Lublinie
vol. XVIII, 2025, no. 2, pp. 547–559
https://doi.org/10.32084/tkp.10210

DISQUALIFICATION OF AN EXPERT WITNESS FOR REASONS THAT UNDERMINE CONFIDENCE IN HIS KNOWLEDGE AND IMPARTIALITY – REALITY VERSUS THE LEGAL NORM OF ARTICLE 196(3) OF THE CODE OF CRIMINAL PROCEDURE

Dr. habil. Anna Świerczewska-Gąsiorowska, University Professor

WSPiA Rzeszów University, Poland
e-mail: a.swierczewska@interia.pl; https://orcid.org/0000-0001-9631-1708

Dr. habil. Marek Fałdowski, University Professor

War Studies University, Poland
e-mail: marekfaldowski@wp.pl; https://orcid.org/0000-0002-1861-0523

Abstract. Criminal procedural law doctrine emphasizes that the evaluation of evidence is continuous and also encompasses expert opinions, which, because they are based on specialized knowledge, require verification using objective criteria such as methodological accuracy, coherence of argument, and compliance with the current state of science. However, practice shows that procedural authorities often accept expert opinions uncritically, leading to deficiencies and violations of fair trial standards. Of particular significance in this context is the wording of Article 196(3) of the Code of Criminal Procedure, which apodictically requires the appointment of another expert if circumstances are substantiated that undermine confidence in the expert's knowledge or impartiality. Despite the precise wording of the provision, this regulation is often marginalized, which favors the acceptance of flawed opinions and, consequently, increases the risk of procedural errors that can even lead to wrongful convictions.

Keywords: expert; opinion; expertise; forensics; criminal proceedings.

INTRODUCTION

The doctrine of criminal procedural law indicates that the assessment of evidence is a continuous process, beginning when the procedural authority becomes aware of the existence of a given piece of evidence and continuing until the conclusion of criminal proceedings [Cieślak 1955, 373]. This concept, formulated several decades ago, has never been questioned, which proves its lasting acceptance, both in doctrine and in jurisprudence. Within

ISSN 1899-7694
e-ISSN 2719-7379

the catalogue of evidence, a special place is occupied by expert opinions, the importance of which has been emphasized by the legislator, who has devoted a separate provision to them in Chapter 22 of the Code of Criminal Procedure,[1] entitled: "Experts, interpreters, specialists". It should be emphasized here that an expert opinion is a type of evidence with a specific methodological structure, based on specialist knowledge and scientific tools. Its assessment, therefore, requires the application of objective criteria, consisting in separating it from the subjective assessments of the procedural authority, including verification in accordance with cognitive standards and the conceptual apparatus appropriate for a given field of knowledge [Widła 1992, 7].

The purpose of this article is to present, based on selectively chosen criminal proceedings concluded with final judgments, the authors' reflections on the exclusion of an expert witness for reasons that undermine confidence in his knowledge and impartiality. Therefore, the research problem was to answer the following question: despite its guarantee, is the normative construction of the provision of Article 196(3) CCP marginalized in the practice of law enforcement and judicial authorities? Concerning the main research problem, a central hypothesis was formulated, which is an opinion based on probability and requiring verification. Thus, the main hypothesis is that the wording of Article 196(3) CCP is sometimes overlooked in practice, which encourages the acceptance of flawed opinions and, consequently, increases the risk of procedural errors that may even lead to wrongful convictions.

In order to obtain answers to the research problem and thus attempt to verify the research hypothesis, the following research methods were used to prepare this study: analysis of sources of currently applicable law and analysis of case law. The empirical research was also based on a detailed method, namely *desk research* – the examination of documents.

1. THE ESSENCE OF AN EXPERT WITNESS IN CRIMINAL PROCEEDINGS

Tadeusz Widła rightly emphasized that the verification of an expert opinion by a procedural authority should include not only an assessment of its substantive content, but also an analysis of the correctness of the expert's logical reasoning based on which the conclusions were formulated. It is also necessary to determine whether the factual material of the case adequately supports the conclusions of the opinion and is not burdened with errors, inaccuracies, or contradictions that could lead to confusion or misinterpretation of the findings in the case. Particular attention should be paid to the

[1] Act of 6 June 1997, the Code of Criminal Procedure, Journal of Laws of 2025, item 46 [hereinafter: CCP].

correctness of the reasoning used by the expert, i.e., whether the individual elements of the argument are consistent with each other and logically lead to the conclusions [Widła 1992, 43].

In this context, it should unfortunately be noted that nowadays there is an increasing tendency for procedural authorities to uncritically accept expert opinions without making any effort to thoroughly verify them, even though this issue was already highlighted in the last century by the most prominent representatives of criminal procedural law and criminalistics. It therefore seems reasonable for those responsible for conducting criminal proceedings to refer once again to the work of Hans Gross, Edmond Locard, Tadeusz Widła, Marian Cieślak, Stanisław Waltoś, and Jerzy Kasprzak, restoring in practice the standards of reliability, objectivity, and, consequently, also justice, which are necessary in the pursuit of objective truth. For example, Hans Gross emphasized that although an expert witness is or should be a highly qualified specialist, a craftsman in the complete sense of the word, with in-depth knowledge in his field, his expertise must be evaluated at every stage of the criminal investigation process however, when a lawyer cannot reliably analyze expert opinion evidence, a kind of "submissiveness" towards the expert occurs, resulting in the inability to properly assess the evidentiary value, the adequacy of the research methods used, and the competence of the expert himself. The result is a limitation of the critical and conscious use of expert opinions as important evidence in criminal proceedings [Kasprzak and Jusupow 2021, 42].

Tadeusz Widła also pointed out the need to examine whether the opinion contains content that could mislead the trial authority, and in the event of a discrepancy between the opinion and other evidence, to indicate its nature and determine the nature of the inconsistency. At the same time, the procedural consequences of deficiencies in the opinion should be analyzed, in particular concerning the emergence of gaps, distortions of information, and unreliability, which may lead to misinformation of the trial authority and, as a result, hinder or even prevent the issuance of a correct and fair decision. Therefore, if we accept – in accordance with the prevailing doctrine – that the assessment of evidence is a permanent process, then the legal regulations relating to expert evidence should be interpreted as a description of successive stages of evaluation. This assessment is not a one-off activity, but should take the form of a sequence of activities leading to a final decision [Widła 1992, 7, 43-44].

On the other hand, based on the above considerations, lawyers and the general public are increasingly raising concerns about the lack of sufficient qualifications and experience among experts, their inadequate level of expertise, and the poor quality of their opinions. In this regard, the allegations include, among others, superficial analyses, unjustified conclusions, lack of references to standards and professional literature, and unclear interpretative language. As a result, this limits the usefulness of expert opinions for

procedural authorities. Therefore, it seems necessary to create a central register of experts, define clear and precise certification procedures, and establish competent supervision of their activities, as this currently constitutes a significant systemic limitation.[2] The lack of the proposed register also results in difficulties in verifying the preparation of experts and thus disrupts the assurance of uniform standards for issuing opinions. The literature on the subject indicates that the appointment of a person with formal education but limited practical experience in a given field may lead to the issuance of opinions of limited evidential value [Kustra and Lasek 2022, 84].

2. EXCLUSION OF AN EXPERT BASED ON ARTICLE 196(3) OF THE CODE OF CRIMINAL PROCEDURE

Against the background of the allegations made in the doctrine and public debate regarding the quality of expert opinions, the provision contained in Article 196(3) CCP, which provides for the obligation to appoint another expert in the event of circumstances undermining confidence in his knowledge, impartiality, or for other important reasons, takes on particular significance. However, despite its guaranteeing nature, this provision is sometimes marginalized in practice, which is primarily explained by the established presumption of the expertise and reliability of experts, considerations of procedural economy, and the procedural authorities' lack of knowledge regarding the evidentiary significance of opinions in the context of specific facts. An additional difficulty is the assessment – in other words, the subjective nature of the grounds for exclusion, which may lead to the application of inconsistent criteria by procedural authorities, especially courts.

Andrzej Gaberle rightly stated that both the position of an expert witness in criminal proceedings and the requirements for the proper performance of this function are specified in Article 196(3) CCP, which obliges the court and procedural authorities to appoint another expert in the event of circumstances undermining confidence in his expertise or impartiality, as well as in the event of other significant reasons. Although this provision does not explicitly formulate the effects of the disclosure of such circumstances on an opinion already prepared, the established grounds for questioning the competence or objectivity of the expert imply a reduction in the evidential value of that opinion. Consequently, the use of such an opinion in the determination

[2] See https://www.gov.pl/web/premier/projekt-ustawy-o-bieglych-sadowych-oraz-instytucjach-opiniujacych?utm_source=chatgpt.com [accessed: 26.08.2025]. In the fourth quarter of 2025, the Council of Ministers is expected to adopt a draft bill on court experts and opinion-issuing institutions, which is much needed in the legal sphere. The draft bill provides, among other things, for the creation of central registers of experts and the institutionalization of mechanisms for supervising experts.

of the facts in a given case constitutes a serious procedural irregularity, violating the principle of proper evidentiary procedure [Gaberle 2010, 207].

As already mentioned, the systemic problem is the evaluative nature of the grounds for excluding an expert, which in reality may result in the application of divergent and inconsistent evaluation criteria. However, both doctrine and case law have developed specific interpretative guidelines and practical instruments aimed at limiting this risk and ensuring the uniformity of procedural decisions [ibid.]. In a situation where a party raises an objection of lack of trust in an expert and requests his replacement, it is incumbent upon that party to demonstrate the existence of valid objective reasons justifying the appointment of another specialist. Only those circumstances which, after a factual and rational analysis, lead to the conclusion that there are indeed grounds for questioning the impartiality of the expert or for questioning the level of their professional knowledge and experience may be considered as such grounds. The foundation of trust in an expert is the conviction that he or she is not only objective but also possesses the relevant specialist knowledge to enable him or her to issue a reliable and credible opinion.[3] These important reasons are only those which, when considered logically, lead to the conclusion that the existing circumstances undermine the expert's objectivity or undermine confidence in his knowledge and experience.[4]

Sharing the line of reasoning adopted in the position discussed, it should be emphasized that the premises referred to as "objectively existing" refer to circumstances that are real and verifiable, and do not result from subjective assessments or individual feelings of the parties, representatives, or procedural authorities. In this context, it is important to assume that experts are presumed to be professional, reliable, and impartial, which ensures the correctness of the evidentiary proceedings. Effectively challenging this presumption requires the presentation of solid evidence to demonstrate that, in a specific case, the presumed characteristics of the expert have not been maintained. It means that in order to assess the admissibility of an expert's exclusion, it is necessary to present circumstances that can be established and verified in the course of the proceedings, rather than relying on the subjective feelings of the participants in the proceedings.[5]

Legal doctrine and case law emphasize that this approach promotes uniformity in the criteria for exclusion and minimizes the risk of arbitrary court decisions, thereby contributing to the protection of the integrity of criminal proceedings and maintaining confidence in the institution of expert witnesses [Gaberle 2010, 207]. In the case of circumstances relating to the expert's

[3] Ref. no. IV KR 176/69, OSNKW 1970, No. 2-3, item 21.
[4] Ref. no. IV KK 171/02, Lex no. 56916.
[5] Ibid.

knowledge, the point here is to indicate that the scope of this knowledge does not meet the conditions set out in Article 193 CCP. However, this does not apply to situations where, for example, the defendants disagree with the expert's statements, but rather to circumstances where the expert is unable to support his statements with appropriate arguments, refers to research methods considered unreliable in professional literature, and at the same time does not have knowledge of the methodology generally recognized as correct. Undoubtedly, the expert's lack of knowledge of scientifically recognized (meeting the criteria of evidence) new and constantly developing research methods will constitute a failure to deepen their knowledge and may undermine confidence in their expertise [Kurowski 2025].

Reasons that may undermine confidence in an expert's knowledge include circumstances indicating significant deficiencies in their specialist competence, which is essential for the proper preparation of an opinion. These may primarily include the expert's lack of knowledge specific to the field covered by the opinion, including the use of outdated terminology, failure to take into account the current state of scientific and technical knowledge on the issues being assessed, as well as the use of methodologies that deviate from the standards recognized as correct and generally accepted in a given discipline. In such a case, the credibility of the expert opinion is significantly weakened, and its use in the proceedings may lead to erroneous findings of fact. The doctrine emphasizes that in order to maintain the standards of fairness in criminal proceedings, the opinion must be prepared by a person with competence corresponding to the substantive requirements of the given specialization, and any shortcomings in this regard may constitute grounds for appointing another expert or for challenging the evidential value of the opinion [Stefański and Zabłocki 2019, 503].[6]

Importantly, legal doctrine and jurisprudence emphasize that in this area, it is not necessary to prove that the expert does not have sufficient skills or is not impartial in a given case, but it is sufficient to substantiate these circumstances [Konecki and Misztal-Konecka 2010, 154; Widła 1992, 36].

3. LEGAL NORM FROM ARTICLE 196(3) OF THE CODE OF CRIMINAL PROCEDURE AND LEGAL REALITY

An example of a current case in which, according to the authors of this study, contrary to the claim of the prosecutor handling the case, there were grounds for applying Article 196(3) CCP, is criminal proceedings concerning an offense under Article 115 of the Act on Copyright and Related Rights.[7]

[6] Judgement of the Supreme Court of 20 February 2014, ref. no. V KK 375/13, Lex no. 144147.

[7] Ref. no. 3008-3.Ds.33.2023 – District Prosecutor's Office in Gdańsk. The preliminary

In the course of other preparatory proceedings, the prosecutor appointed a court expert in the field of intellectual property protection and copyright, entered in the list of experts of the Regional Court, to analyze the evidence and prepare an opinion on a possible copyright infringement.

After the expert prepared his opinion, reasonable doubts arose that the expert may have misappropriated someone else's work. The subject of the findings was extensive excerpts from the Commentary on the Act on Copyright and Related Rights of February 4, 1994, which were then included in the opinion as the expert's own considerations, after the author's quotations and footnotes had been removed. In this context, there was a reasonable suspicion that the expert's conduct could constitute a criminal offense of infringement of another person's copyright, which is why the case materials in this regard were excluded, and, as a consequence, separate proceedings were initiated. Notably, the excluded case file also included the opinion of a private expert – a researcher specializing in copyright and intellectual property law – who clearly indicated that the expert's conduct constituted the statutory elements of the crime of plagiarism. Despite the categorical opinion of the expert and the testimony of the victim, according to whom a copyright infringement may have occurred (incidentally, also an expert in copyright law), the prosecutor did not take this assessment into account, disregarding the testimony of the author of the comment as well as the expert's statements.

From a procedural perspective, the conclusion seems clear: the content of Article 196(3) CCP explicitly requires the appointment of another expert in a situation where there are doubts as to the reliability or competence of the current expert. The failure of the prosecutor's office to take such action indicates that the provision in question has not been applied, which may raise serious doubts as to the correctness of the proceedings. Furthermore, what seems bizarre is that the expert himself explained the lack of footnotes as a "clerical error" and then supplemented these omissions in his opinion. In the circumstances of the case in question, there is no doubt that the lack of confidence in his knowledge has been substantiated. Furthermore, in the context of an expert appointed as an expert in copyright law, the question arises, not only of a substantive nature, but also of an ethical nature in terms of the credibility of such an explanation. Can the appropriation of fragments of someone else's work be treated as a simple clerical error in the case of an expert who is required to have the highest level of expertise and competence in copyright law? As already mentioned, these doubts are not only procedural but also systemic in nature, as they concern citizens' trust in the justice system in the broadest sense.

---

proceedings in the case were discontinued, but the expert opinion remains in legal circulation.

Ultimately, the preliminary proceedings against the expert were discontinued, but it should be noted that no other expert was consulted to make a procedural assessment of whether the expert had, in fact, appropriated parts of someone else's work in his opinion. Unfortunately, the opinion prepared by the expert remains evidence in the criminal proceedings, which is regrettable. This case, with its complex legal and ethical implications, prompts reflection on the standards of professionalism in the work of court experts and on the mechanisms for reviewing expert opinions in the justice system, as well as on the reliability of some prosecutors in conducting cases. It seems fair to say that the cases in question, one of which is still ongoing, are nothing more than ignorance on the part of the justice system itself. Case law clearly emphasizes that the public often perceives the actions and omissions of experts as a reflection of the functioning of the justice system. For this reason, it cannot be tainted in any way.[8] A court expert cannot raise any suspicions as to bias, unreliability, or lack of objectivity,[9] and the existence of a reasonable suspicion of a crime in a case in which the expert issued an opinion that is the subject of suspicion of a crime committed by him is undoubtedly such a "blemish."

The concept of "guarantee of proper performance of the expert's duties" is defined as the totality of characteristics, events, and circumstances relating to the court expert, which constitute his image as a person of public trust. Any suspicion of unreliability in the performance of an expert's duties entitles one to conclude that he does not meet the basic condition of guarantee necessary to perform this function.[10] The above is also in line with para. 12(1)(4) and para. 4 of the Regulation of the Minister of Justice of January 24, 2005, on court experts. In this particular proceeding, in which materials were excluded by failing to call on the opinion of another expert, based solely on what the authors consider to be an unjustified discontinuation of the preparatory proceedings concerning the expert's conduct, doubts arose as to the reliability and objectivity of the case.

In the case cited, the issue of discontinuing the preliminary proceedings without obtaining what appears to be a necessary opinion, despite the claims of the victim herself and a copyright expert, is significant. Case law and criminal procedure literature emphasize that in every case where the resolution of a given issue requires "special knowledge," i.e., knowledge that goes beyond the common knowledge of the average person, it is necessary

---

[8] Judgment of the Supreme Administrative Court of 10 June 2015, ref. no. II GSK 986/14 guarantee of proper performance of the expert's duties, Lex no. 1765567.

[9] Judgment of the Provincial Administrative Court in Warsaw of 23 April 2008, ref. no. VI SA/Wa 140/08, Lex no. 498390.

[10] Judgment of the Provincial Administrative Court in Warsaw of 18 October 2006, ref. no. VI SA/Wa 1553/06, Lex no. 264553.

to appoint an expert. Under no circumstances may a procedural authority, even if it has special knowledge (e.g., in the field of handwriting analysis, resulting from previous experience in this area), refrain from obtaining an expert opinion.[11] The legislator explicitly states that the determination of circumstances requiring remarkable knowledge results (mandatorily) in "consulting" an expert or experts [Kremens 2015]. The special knowledge that an expert can provide cannot be replaced by a procedural authority [Bachrach 1972, 175-77; Grzegorczyk 2014, 689].[12] In such a case, the expert opinion of the procedural authority would not be controlled either by the parties or by the authority itself [Waltoś and Hofmański 2016, 397]. This authority cannot play a dual role – that of a procedural authority and a source of evidence [Witkowska 2013, 67; Stefański and Zabłocki 2019, 455]. In the case in question, the prosecutor uncritically discontinued the preparatory proceedings concerning a reasonable suspicion of plagiarism by an expert acting in such a dual role.

It raises the question: What should a procedural authority do when an expert opinion proves to be unreliable? The answer has been developed in legal literature and case law, and its foundation can be found in Article 196(3) CCP – a provision formulated unambiguously and authoritatively. It is not just a matter of stating a fact – it is the duty of the trial authority to appoint another expert. Such an attitude is necessary to ensure that the proceedings remain reliable and credible. As Tadeusz Widła aptly pointed out in his monograph *Ocena opinii biegłego* (Eng. Assessment of an expert opinion), the epistemic status of an opinion from an inappropriate source is nil. Such an opinion should be rejected and not considered at all, nor taken into account when determining evidence. It cannot be used as a basis for decisions in a case – its admission would jeopardize the reliability and fairness of the proceedings. In this regard, the doctrine also emphasizes that the action provided for in Article 196(3) CCP is like putting out a fire – even if it is successful, there will be losses. The loss consists in the fact that a weak and unreliable opinion appears in legal transactions, which may mislead the procedural authorities and the court. Therefore, rejecting such an opinion is not merely a formality, but a fundamental duty of the procedural authority – a condition for maintaining the reliability, objectivity, and fairness of the proceedings [Widła 1992, 89].

This case is important from the point of view of justice, as it concerns an expert who issues opinions in many cases. Often, an expert's opinion determines people's fates. Case law emphasizes that the public often perceives

[11] Judgments of the Supreme Court: of 3 May 1982, ref. no. I KR 319/81, OSNPG 1982, No. 11, item 149; od 20 May 1984, ref. no. I KR 102/84, OSNPG 1984, No. 12, item 112.

[12] Judgments of the Supreme Court: of 19 June 1980, ref. no. I KR 118/80, unpublished; of 25 August 1980, ref. no. I KR 191/80.

the actions and omissions of experts as a way in which justice functions.[13] A court expert must not raise any suspicions as to bias, unreliability, or lack of objectivity.[14] It is therefore no exaggeration to say that an expert is a person of public trust – the accuracy of a decision in a criminal case, in which people's fates are weighed and decisions of the utmost importance are made: freedom and dignity [Gaberle 2010, 207], depends on their knowledge and reliability. A reasonable suspicion by an expert witness in intellectual property cases of plagiarism should be particularly sensitive for the justice system. Therefore, there can be no situation where there are doubts that undermine trust in the procedural authorities and, as a result, in the entire justice system.

Another case in which experts demonstrated a lack of due diligence is the case of Tomasz Komenda, which caused a stir not only in the legal community but also among the general public. The verdict in this case decided the fate of a man who, as we know, was wrongfully sentenced to imprisonment and then experienced the dramatic consequences of this mistake for many years. Expert opinions played a key role in the wrongful conviction, as they were the basis for finding the person guilty and sentencing him. The Supreme Court, acquitting Tomasz Komenda in 2018, found that the original expert opinions contained significant methodological and accounting errors, which resulted in the wrongful attribution of guilt. In particular, bite marks on the victim's body were misidentified, and scent traces, which allegedly indicated the defendant's presence at the crime scene, were incorrectly assessed.[15] Insufficient verification of these opinions by law enforcement authorities, and in particular by the court, led to the wrongful conviction of an innocent man and his serving 18 years of imprisonment. The final acquittal of Tomasz Komenda by the Supreme Court emphasizes the importance of reliability and objectivity in the work of experts and the need for their critical analysis by the trial authorities. This case also points to the need to reform the system of expert opinions and to strengthen the mechanisms for quality control of these opinions in order to prevent similar mistakes with serious consequences in the future.[16]

---

[13] Judgment of the Supreme Administrative Court of 10 June 2015, ref. no. II GSK 986/14.

[14] Judgment of the Provincial Administrative Court in Warsaw of 23 April 2008, ref. no. VI SA/Wa 140/08.

[15] Judgment of the Supreme Court, ref. no. V KO 26/18, https://www.sn.pl/sites/orzecznictwo/orzeczenia3/v%20ko%2026-18-1.pdf [accessed: 27.08.2025].

[16] Ombudsman: *The Tomasz Komenda case should never have happened*. The Ombudsman points to nine reasons why innocent people are convicted in Poland, see https://bip.brpo.gov.pl/pl/content/sprawa-tomasza-komendy-rpo-wskazuje-9-przyczyn-skazywania-niewinnych?utm_source=chatgpt.com [accessed: 26.08.2025].

CONCLUSIONS

In summary, the issue of expert opinions in criminal proceedings reveals the multidimensional nature of the problem, combining epistemic, procedural, and ethical aspects. Criminal procedural law literature emphasizes that the assessment of evidence, including the concept of an expert opinion, is continuous and uninterrupted – it begins when the procedural authority becomes aware of the existence of evidence and continues until the proceedings are legally concluded. This concept, which has been largely unquestioned for decades, underscores the need for continuous evaluation of evidence, which cannot be limited to a single action but requires a systematic and sequential analysis encompassing both substantive and formal aspects.

Due to its specialist significance in criminal proceedings, an expert opinion should be treated as evidence of particular importance. Its assessment requires the use of scientific tools and terminology specific to the field in question, which allows the analysis to be separated from the subjective feelings of the trial authority and subjected to verification according to objective and scientifically justified criteria. As Tadeusz Widła aptly points out, the verification of an opinion includes not only an assessment of its content, but also an analysis of the correctness of the logical argument, the consistency of the reasoning, and the relationship between the conclusions and the evidence, while eliminating errors and inaccuracies that could lead to confusion on the part of the trial authority [Widła 1992, 7].

However, practice shows that procedural authorities often accept expert opinions without critical analysis, which constitutes a violation of the fundamental principles of reliability and objectivity in criminal proceedings. For this reason, legal literature repeatedly emphasizes the need to refer to the classics of criminalistics, such as Hans Gross, Edmond Locard, and Tadeusz Widła, who pointed to the need for careful, scientifically grounded evidence analysis as *a sine qua non* condition. It is also worth reading Hans Gross's Handbook for the Investigating Judge as a System of Criminalistics, which has been excellently translated into Polish by Professor Jerzy Kasprzak and is still relevant today, not only in the field of expert opinions.

In the context of statutory solutions, this issue is reflected in Article 196(3) CCP, which obliges the procedural authority to appoint another expert in the event of circumstances undermining confidence in the knowledge or impartiality of the first expert. Despite its guaranteeing nature, the normative construction of the provision is sometimes marginalized in practice, which not only poses threats to the administration of justice but also, above all, poses a threat to human life and fate, sometimes irreversibly. The literature and case law indicate that the appointment of another expert

is not only a formal obligation, but also a necessary tool for protecting trust in the administration of justice and ensuring the objectivity of the process.

An analysis of selectively chosen proceedings, including the case of Tomasz Komenda, clearly illustrates the dramatic consequences of accepting an unreliable opinion. It indicates that even minimal shortcomings in knowledge, experience, or methodology can lead to serious human rights violations and, in extreme situations, to wrongful convictions. Similarly, the case of an expert witness who was reasonably suspected of committing plagiarism in a case involving opinions on copyright and intellectual property infringement illustrates how the lack of reliable verification and the ignoring of evidence undermining the opinion undermines trust in the judicial authorities and the entire justice system.

The reflections drawn from this study allow us to formulate several key recommendations, including those of a systemic nature: first, expert opinions must be subject to critical and systematic analysis at every stage of the proceedings; secondly, the institutionalization of mechanisms for supervising experts, including the creation of central registers, precise certification and verification procedures, is necessary to maintain a high standard of expert opinions; thirdly, the trial authorities must respect the obligation to appoint another expert in the event of any circumstances that undermine confidence in his or her knowledge; finally, fourthly, education and training in the methodology of expert opinions and the skills of critical analysis of evidence should be an integral part of the professional training of trial authorities.

It should be emphasized that the role of an expert is not limited to providing an opinion – an expert is a person of public trust, and their knowledge and reliability have a direct impact on decisions concerning matters of the utmost importance, such as the dignity and freedom of the individual. In light of the above, maintaining high standards of expert opinion, rigorous verification of evidence, and consistent and authoritative application of Article 196(3) CCP are key to preserving reliability, justice, and public trust in the justice system.

Professor Marian Cieślak, analyzing the issue of evidence, aptly noted that the work of law enforcement agencies and courts is essentially similar to that of archaeologists and historians. Like them, the trial authorities use a historical and critical method, which consists of reconstructing facts in conceptual terms and verifying them thoroughly and from multiple angles. The foundation of this process is evidence – a mosaic of elements from which the reconstruction of past events is built [Cieślak 2011, 5]. Among this evidence, expert opinion occupies a special place, often constituting the key to a proper understanding and assessment of the circumstances under investigation.

REFERENCES

Bachrach, Aleksander. 1972. "Glosa do wyroku SN z 21.06.1971 r., III KR 18/71." *Państwo i Prawo* 11:175-77.

Cieślak, Marian. 1955. *Zagadnienia dowodowe w procesie karnym*. Warszawa: Wydawnictwo Prawnicze.

Cieślak, Marian. 2011. *Dzieła wybrane*. Vol. I: *Zagadnienia dowodowe w procesie karnym*. Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego.

Gaberle, Andrzej. 2010. *Dowody w sądowym procesie karnym. Teoria i praktyka*. Warszawa: Wolters Kluwer.

Grzegorczyk, Tomasz. 2014. *Kodeks postępowania karnego*. Vol. I: *Komentarz do art. 1-467*. Warszawa: Wolter Kluwer.

Karolina, Kremens. 2015. *Powołanie biegłego*. Lex el.

Kasprzak, Jerzy, and Władimir Jusupow. 2021. "Hans Gross – postać znana i nieznana." *Studia Prawnoustrojowe* 51:39-55.

Konecki, Janusz, and Joanna Misztal-Konecka. 2010. "Wyłączenie biegłego w postępowaniu karnym." *Prokuratura i Prawo* 7-8:149-64.

Kurowski, Michał. 2025. "Komentarz do art. 196." In *Kodeks postępowania karnego. Vol. I*, edited by Dariusz Świecki. Lex el.

Kustra, Dariusz, and Sławomir Lasek. 2022. "Pytania, zarzuty, zastrzeżenia do opinii OZSS – krytyka, polemika czy rozmowa o rozwiązaniach." *Dziecko Krzywdzone. Teoria, badania, praktyka* 2:78-86.

Stefański, Ryszard A., and Stanisław Zabłocki. 2019. *Kodeks postępowania karnego*. Vol. II: *Komentarz do art. 167-296*. Warszawa: Wolters Kluwer.

Waltoś, Stanisław, and Piotr Hofmański. 2016. *Proces karny. Zarys systemu*. Warszawa: Wolter Kluwer.

Widła, Tadeusz. 1992. *Ocena dowodu z opinii biegłego*. Katowice: Wydawnictwo Uniwersytetu Śląskiego.

Witkowska, Krystyna. 2013. "Biegły w postępowaniu karnym." *Prokuratura i Prawo* 1:65-81.