

Failure to Prepare or to Present Documentation on a Work-related Accident in Light of the Polish Criminal Code¹

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Abstract: *The subject of this paper is the offence of failure to prepare or to present the required documentation on a work-related accident. This offence is criminalised under the Article 221 of the Polish Criminal Code. The author begins by considering what kind of interest is protected against the offence in question and giving a definition of a work-related accident. The author then continues with a detailed analysis of the objective element of the offence and the offender. The author also explains the subjective element of this offence. She analyses the relevant provisions of the Criminal Code, the Labour Code and other legal acts concerning the labour and social insurance law. Finally, she gives some conclusions and makes a de lege ferenda postulate.*

Key Words: *Criminal Law; Labour Law; Work-related Accident; Duty to Prepare Documentation Concerning a Work-related Accident; Failure to Present Documentation Concerning a Work-related Accident; Accident Report; Register of Work-related Accidents; Criminal Code; Labour Code; Poland.*

Introduction

Article 221 of the Polish Criminal Code² stipulates that “Anyone who fails to report on time to the competent authority a work-related accident or a case of occupational disease, or who fails to prepare or to present the required documentation, despite a duty to do so, is liable to a fine of up to 180 times the daily rate or the restriction of liberty”. The above-mentioned provision addresses two different and separate occurrences, i.e. work-related accidents and occupational diseases. The presented paper

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² See *Statute of 6 June 1997 – The Criminal Code* [1997]. Journal of Laws, no. 88, item 553, as amended.

concerns only work-related accidents and focuses only on the offence of failure to prepare or to present the required documentation on a work-related accident. This offence will be described in terms of the protected interest, the offender (perpetrator) as well as the objective element (*actus reus*) and the subjective element (*mens rea*). A detailed analysis will be carried out as to the offender and *actus reus* since these elements of the offence in question raise controversies in the Polish doctrine of criminal law.

Discussion

In the context of failure to prepare or to present the required documentation on a work-related accident, the legal interest protected under the Article 221 of the Polish Criminal Code includes the right of persons performing work to social insurance benefits in the event of work-related accidents as well as the right to safe and healthy working conditions.³ Article 221 of the Criminal Code also protects appropriate functioning of the social insurance system.⁴

The offender under the Article 221 of the Criminal Code was defined using the words “Anyone who fails [...] despite a duty to do so [...]”. Interpretation of this criterion needs to be combined with a clarification of the elements describing the objective element of the offence. The causative act which is a constituent element of the offence in question has been defined alternatively using the words “fails to prepare” or “fails to present”. The provision in the Article 221 of the Criminal Code is a blanket provision. The Criminal Code does not define a work-related accident, respectively does not specify documentation that must be prepared in relation to such an accident. In order to be able to elucidate the elements

³ See W. Radecki in WĄSEK, A. ed. *Kodeks karny: Część szczególna: Tom I: Komentarz do artykułów 117 – 221*. 2. wyd. Warszawa: C. H. Beck, 2004, p. 1177. ISBN 83-7387-473-9; P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1509. ISBN 978-83-255-6855-9; D. Szeleszczuk in GRZEŠKOWIAK, A. and K. WIAK, eds. *Kodeks karny: Komentarz*. 3. wyd. Warszawa: C. H. Beck, 2015, p. 1112. ISBN 978-83-255-7493-2; and A. Ziółkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, pp. 1000-1001. ISBN 978-83-8092-163-4.

⁴ See J. Piórkowska-Flieger in BOJARSKI, T. ed. *Kodeks karny: Komentarz*. 7. wyd. Warszawa: Wolters Kluwer, 2016, p. 644. ISBN 978-83-264-9387-4; A. Ziółkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, p. 1000. ISBN 978-83-8092-163-4; and P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1509. ISBN 978-83-255-6855-9.

of the provision in question, it should be referred to provisions of the labour law and social insurance law.

The notion of a work-related accident is defined in the Act on Social Insurance in Case of Work-related Accidents and Occupational Diseases of 30 October 2002,⁵ also known as the “Accidents Act” (hereinafter referred to as the “Accidents Act”). Article 3(1) of the Accidents Act stipulates that “A work-related accident is a sudden incident arising from an external cause resulting in death or an injury that occurred in connection with work: 1) during or in connection with the employee carrying out ordinary activities or following his/her managers’ instructions; 2) during or in connection with the employee carrying out activities on behalf of the employer, even if uninstructed; 3) during the time the employee remains at the employer’s disposal on his/her way from the employer’s office to the location where he/she is expected to perform his/her duties under the employment contract”. Contrary to the opinion found in the literature,⁶ the work-related accidents under the Article 221 of the Criminal Code do not include the accident defined in the Article 3(2) of the Accidents Act, as the provision focuses on the right to benefits (“As concerns the right to benefits defined in the Accidents Act, the following accidents shall be treated as equal to work-related accidents: 1) an employee accident occurring during a business trip otherwise than in circumstances specified in paragraph 1 unless the accident resulted from the employee’s conduct that bears no connection to the performance of activities entrusted to him/her; 2) an employee accident that occurred during a national self-defence training; 3) an employee accident occurring when carrying out tasks ordered by the trade unions operating at the employer’s establishment”). It should be emphasized that the statutory elements of a criminal offence should be interpreted restrictively.

A work-related accident under the Article 221 of the Criminal Code includes the accident defined in the Article 3(3) of the Accidents Act (“A work-related accident is a sudden incident arising from an external cause resulting in death or an injury that occurred in the period of relevant accident insurance during: 1) sports activity at competitions and during training by a person receiving a sports scholarship; 2) performing unpaid work based on a work referral during the period of detention or

⁵ See *Statute of 30 October 2002 on Social Insurance in Case of Work-related Accidents and Occupational Diseases* [2002]. *Journal of Laws*, no. 199, item 1673, as amended.

⁶ See P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1511. ISBN 978-83-255-6855-9.

temporary arrest; 3) the exercise of mandate by the Members of Parliament or senators receiving emoluments; 3a) (revoked); 4) undergoing training, internship, vocational preparation for adults or on-site vocational preparation by a person receiving scholarship in the period of such training, internship, vocational preparation for adults or on-site vocational preparation based on a work referral issued by a district employment office or another referring body, receipt of scholarship under provisions on promotion of employment and labour market organisations during the post-graduate studies; 5) performance of work by a person who is a member of a farming cooperative, farmers' cooperative association and by another person treated as equal to a member of a cooperative, as defined in provisions on the social insurance system, when such work is performed on behalf of those cooperatives; 6) performance of work based on an agency contract, contract of mandate or services contract to which, in accordance with the Civil Code, the provisions on the contract of mandate are applied; 6a) performance of work based on an activation agreement defined in the Act of 4 February 2011 on Caring for Children of Up to Three Years Old (Journal of Laws of 2018, items 603 and 650); 7) cooperating in the performance of work based on an agency contract, contract of mandate or services contract to which, in accordance with the Civil Code, the provisions on the contract of mandate are applied; 8) performance of ordinary activities as part of a non-agricultural business, as defined by the social insurance system regulations; 9) performance of ordinary activities as part of a cooperation in a non-agricultural business, as defined by the social insurance system regulations; 10) performance of religious activities or pastoral/monastic duties by members of the clergy; 11) alternative military service; 12) attendance at the Lech Kaczyński National School of Public Administration by students receiving scholarship; 12a) attending doctoral school by doctoral students receiving scholarship; 13) performance of work based on an agency contract, contract of mandate or services contract to which, in accordance with the Civil Code, the provisions on the contract of mandate are applied, or based on a contract of specific work if such a contract was concluded with the employer by whom the person is employed or if, as part of such a contract, the person provides work to the employer by whom he/she is employed").

It should be explained that the case in the Article 3(1) of the Accidents Act concerns an employee, while the case in the Article 3(3) of the Accidents Act concerns a person who is not an employee, but is covered

with an accident insurance policy. In the literature, a view has been expressed that the Article 221 of the Criminal Code does not cover those work-related accidents under the Article 3(3) of the Accidents Act which concern persons not engaged in paid work,⁷ e.g. members of the clergy performing religious activities. The title of the Chapter XXVIII of the Criminal Code (“Offences against the Rights of Persons Pursuing Paid Work”) of which the Article 221 of the Criminal Code is part is quoted as an argument to support this view. Such a view is not accurate. We have already addressed this issue in one of our previous papers.⁸ It is worth to remind here the argumentation. The titles of the chapters in the Special Part of the Criminal Code are used to systematise and to order the contents of the Criminal Code. They may be helpful in defining the protected interests and interpreting the elements of the offences, but they are not conclusive. Decisive for the scope of criminalisation of a given conduct are the statutory elements of an offence. The “work-related accident’s” element included in the Article 221 of the Criminal Code should be interpreted in line with the Accidents Act. Neither this act nor other provisions regulating the procedure for establishing causes of work-related accidents contain any exclusion in this respect. Moreover, differentiating between the scope of protection guaranteed under the criminal law to victims of accidents who do paid work and to those performing unpaid work (for example, members of the clergy performing pastoral work which, by its nature, is an unpaid work) wouldn’t be reasonable.

An offender under the Article 221 of the Criminal Code can only be a person who has a legal obligation to act and fails to fulfil this duty. The offence criminalised in the Article 221 of the Criminal Code is, thus, an individual offence (*delictum proprium*).⁹ It can be only committed by

⁷ See E. Hryniewicz in KRÓLIKOWSKI, M. and R. ZAWŁOCKI, eds. *Kodeks karny: Część szczególna: Tom I: Komentarz do art. 117 – 221*. 1. wyd. Warszawa: C. H. Beck, 2013, p. 916. ISBN 978-83-255-4565-9; W. Wróbel in WRÓBEL, W. and A. ZOLL, eds. *Kodeks karny: Część szczególna: Tom II: Część 2: Komentarz do art. 212 – 277d*. 5. wyd. Warszawa: Wolters Kluwer, 2017, p. 136. ISBN 978-83-8107-547-3; A. Ziółkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, p. 1002. ISBN 978-83-8092-163-4; and P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1511. ISBN 978-83-255-6855-9.

⁸ See BANASIK, K. Offence of Failure to Report a Work-related Accident in Poland. *Societas et Iurisprudencia*. 2019, vol. 7, no. 1, pp. 81-82. ISSN 1339-5467.

⁹ See W. Radecki in WARYLEWSKI, J. ed. *System Prawa Karnego: Tom 10: Przestępstwa przeciwko dobrom indywidualnym*. 2. wyd. Warszawa: C. H. Beck, 2016, p. 1283. ISBN 978-83-255-8500-6; UNTERSCHÜTZ, J. *Karnopravna ochrana prav osóby vykonávajúcich prácu zarobkovú*. 1. wyd. Warszawa: Wolters Kluwer, 2010, p. 166. ISBN 978-83-264-0069-8; P.

omission.¹⁰ A perpetrator of this offence fails to prepare or to present the required documentation. One of the objective elements of the mentioned offence is, thus, “required documentation”. This term means, of course, documentation concerning a work-related accident. It should be explained what kind of documents are part of an accident documentation. The method of documenting the work-related accidents of employees is defined in the Regulation of the Council of Ministers of 1 July 2009 Concerning the Procedures for Establishing Circumstances and Causes of Work-related Accidents¹¹ and the Regulation of the Minister of Labour and Social Policy of 7 January 2009 Concerning the Statistical Work-related Accident Report Sheet.¹² According to both of these regulations, accident documentation includes accident report (with such attachments as are, e.g., photographs of the accident site or doctor’s opinion), statistical work-related accident report sheet and register of work-related accidents.

Section 4 of the Regulation of the Council of Ministers of 1 July 2009 Concerning the Procedures for Establishing the Circumstances and Causes of Work-related Accidents stipulates that the circumstances and causes of an accident are to be established by an accident investigation team comprising a member of the occupational health and safety service and a social labour inspector. In accordance with the Section 5 of the above-mentioned regulation, where the employer is not obliged to appoint the

Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1512. ISBN 978-83-255-6855-9; W. Wróbel in WRÓBEL, W. and A. ZOLL, eds. *Kodeks karny: Część szczególna: Tom II: Część 2: Komentarz do art. 212 – 277d*. 5. wyd. Warszawa: Wolters Kluwer, 2017, p. 135. ISBN 978-83-8107-547-3; A. Ziółkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, p. 1007. ISBN 978-83-8092-163-4; E. Hryniewicz in KRÓLIKOWSKI, M. and R. ZAWŁOCKI, eds. *Kodeks karny: Część szczególna: Tom I: Komentarz do art. 117 – 221*. 1. wyd. Warszawa: C. H. Beck, 2013, p. 917. ISBN 978-83-255-4565-9; and MAREK, A. *Kodeks karny: Komentarz*. 5. wyd. Warszawa: Wolters Kluwer, 2010, p. 493. ISBN 978-83-264-0275-3.

¹⁰ See LACH, D. E., S. SAMOL and K. ŚLEBZAK. *Ustawa o ubezpieczeniu społecznym z tytułu wypadków przy pracy i chorób zawodowych: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2010. 244 p. ISBN 978-83-264-0106-0; and M. Budyn-Kulik in MOZGAWA, M. ed. *Kodeks karny: Komentarz*. 8. wyd. Warszawa: Wolters Kluwer, 2017, p. 692. ISBN 978-83-8107-544-2.

¹¹ See *Regulation of the Council of Ministers of 1 July 2009 Concerning the Procedures for Establishing Circumstances and Causes of Work-related Accidents* [2009]. Journal of Laws, no. 105, item 870.

¹² See *Regulation of the Minister of Labour and Social Policy of 7 January 2009 Concerning the Statistical Work-related Accident Report Sheet* [2009]. Journal of Laws, no. 14, item 80.

occupational health and safety service under the Labour Code,¹³ the place of a member of that service in the accident investigation team is taken by the employer or an employee performing another job and delegated by the employer to perform the tasks of the occupational health and safety service, or by an external specialist. Where the employer has no social labour inspection in place, the place of a social labour inspector in the accident investigation team is taken by a representative of the employees who holds a current occupational health and safety training certificate. Section 6 of the mentioned regulation provides that if the employer cannot fulfil the obligation to appoint a two-person accident investigation team, as defined in the Sections 4 and 5 of the stated regulation, due to a small number of employees, the circumstances and causes of the accident should be established by a post-accident team comprising the employer and an external specialist. In accordance with the Section 9 of the above-mentioned regulation, after establishing the circumstances and causes of an accident, the accident investigation team prepares – not later than within 14 days from the date the accident was reported – an accident report and submits it promptly to the employer for approval. The above-stated provisions stipulate that the accident investigation team is obliged to prepare a document in the form of an accident report. Contrary to the opinion found in the literature,¹⁴ members of the accident investigation team are not potential offenders under the Article 221 of the Criminal Code. It should be noted that the team is composed of two members – an accident report cannot be prepared by one member only. A person cannot be held criminally liable for an omission of another person – this would be the case if the other member of the team refused to work on the accident report. The Polish law is not familiar with this type of collective liability. Moreover, an accident report signed only by mem-

¹³ See *Statute of 26 June 1974 – The Labour Code* [1974]. *Journal of Laws*, no. 24, item 141, as amended.

¹⁴ See JACHIMOWICZ, M. Niezawiadomienie o wypadku przy pracy lub chorobie zawodowej (przestępstwo z art. 221 k.k.). *Ruch Prawniczy, Ekonomiczny i Socjologiczny*. 2003, vol. 65, nr 3, p. 115. ISSN 0035-9629; UNTERSCHÜTZ, J. *Karnoprawna ochrona praw osób wykonujących pracę zarobkową*. 1. wyd. Warszawa: Wolters Kluwer, 2010, p. 167. ISBN 978-83-264-0069-8; D. Szeleszczuk in GRZEŚKOWIAK, A. and K. WIAK, eds. *Kodeks karny: Komentarz*. 3. wyd. Warszawa: C. H. Beck, 2015, p. 1112. ISBN 978-83-255-7493-2; P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C. H. Beck, 2015, p. 1513. ISBN 978-83-255-6855-9; A. Ziółkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, p. 1007. ISBN 978-83-8092-163-4; and J. Piórkowska-Flieger in BOJARSKI, T. ed. *Kodeks karny: Komentarz*. 7. wyd. Warszawa: Wolters Kluwer, 2016, p. 645. ISBN 978-83-264-9387-4.

bers of the accident investigation team serves only for internal use. It can only be used externally for legal purposes after having been approved by the employer. This is the conclusion that can be drawn from the provision in the Section 13 of the mentioned regulation which stipulates that an accident report must be approved by the employer within 5 days from the date of preparation. The employer should send back an unapproved accident report to the accident investigation team for clarification and completion if the victim or family members of an employee who died as a result of an accident raise objections to the contents of the report or if the accident report does not meet the requirements defined in the stated regulation. Thus, it is the employer who is responsible for the correct preparation of an accident report. Moreover, the employer can apply legal measures to discipline on members of the accident investigation team if they fail to fulfil their duties. In the case of a team member who is an employee, the employee or disciplinary liability can be applied, while in the case of a team member who is an external specialist the civil liability applies.

The employer's obligation to prepare a statistical work-related accident report sheet stems from the Regulation of the Minister of Labour and Social Policy of 7 January 2009 Concerning the Statistical Work-related Accident Report Sheet. According to the Section 3 of this regulation, the statistical report sheet is prepared on the basis of an accident report or an accident sheet in which it was indicated that an accident is a work-related accident or that it should be treated as equal to a work-related accident. *Prima facie*, it is not entirely clear when the employer should prepare the statistical report sheet on the basis of an accident sheet since where there is an accident in employment an accident report is drawn up. An analysis of all of the regulations relevant to the issue in question leads us to conclude that this involves situations where the employer acts as the entity defined in the Article 5(1) of the Accidents Act, including, for example, a situation where the accident happens to a person performing work based on a contract of mandate if such a contract was concluded with the employer by whom the person is employed. Article 5(1) of the Accidents Act refers to the Article 3(3) of the Accidents Act and includes, e.g., an entity paying out a sports scholarship – with respect to persons receiving such scholarships; an entity on behalf of which paid work is provided during the period of detention or temporary arrest – with respect to persons performing such work based on a work referral; the Chancellery of the Sejm – with respect to the Members of Parliament

and the Chancellery of the Senate – with respect to senators; the competent diocese or monastic authority – with respect to members of the clergy; the Lech Kaczyński National School of Public Administration – with respect to students of the school receiving a scholarship; an entity administering doctoral school – with respect to doctoral students receiving a scholarship.

Pursuant to the Section 4 of the above-mentioned regulation, Part I of the statistical report sheet (drawn-up using the form attached to the regulation) must be prepared within 14 working days from the date on which the accident report was approved or on which the accident sheet was prepared. The supplementary Part II is prepared in a period that allows it to be submitted within the term specified in the Section 5 of the above-stated regulation. Pursuant to this Section 5, the statistical report sheet – Part II excluded – must be prepared prior to the 15th working day of the month following the month in which the accident report was approved or in which the accident sheet was prepared. The employer submits Part II of the statistical report sheet within 6 months from the date on which the accident report was approved or on which the accident sheet was prepared. The statistical report sheet is submitted electronically via the reporting portal of the Statistics Poland or in its original written form to the Statistical Office in Bydgoszcz. Therefore, if the employer fails to prepare, fails to prepare within the prescribed time-period or fails to present the statistical report sheet to the competent authorities, he/she commits the offence under the Article 221 of the Criminal Code.

The method of documenting work-related accidents that occurred in the period of accident insurance of persons not being employees is defined in the Regulation of the Minister of Labour and Social Policy of 19 December 2002 on the Procedure for Establishing that an Incident Occurring during a Period of Accident Insurance Was a Work-related Accident, on Legal Classification of Incidents, Sample Accident Sheet and the Period for Its Preparation.¹⁵ According to this regulation, accident documentation includes only the accident sheet (with attachments, e.g. victim's clarification). Section 4 of the mentioned regulation stipulates that after the circumstances and causes of an accident are established – not later than within 14 days from the date the accident was reported – the

¹⁵ See *Regulation of the Minister of Labour and Social Policy of 19 December 2002 Concerning the Procedure for Establishing that an Incident Occurring During a Period of Accident Insurance Was a Work-related Accident, on Legal Classification of Incidents, Sample Accident Sheet and the Period for Its Preparation* [2013]. Journal of Laws, item 1618.

entities mentioned in the Article 5(1) of the Accidents Act prepare an accident sheet using the form attached to the regulation. The accident sheet is made in three copies: the first copy is issued to the victim or an authorised family member; the second copy is kept on file by the entity establishing the circumstances and causes of the accident; and the third copy is submitted to the Polish Social Insurance Institution if an incident has been determined to be a work-related accident. The above-stated provisions entail that the entities mentioned in the Article 5(1) of the Accidents Act may become offenders under the Article 221 of the Criminal Code by failing to prepare the accident documentation (or to prepare it within the prescribed time-period) or by failing to present the accident documentation.

It also should be mentioned that the entities defined in the Article 5(1) of the Accidents Act are not obliged to prepare the statistical work-related report sheet or to maintain a register of work-related accidents. These obligations are envisaged in the Labour Code and are only imposed on employers. This differentiation in obligations between entities considered employers and entities not considered employers under the Labour Code raises some objections. It would be reasonable to expect that all entities establishing circumstances and causes of accidents – where it has been established that a work-related accident occurred – prepare the statistical work-related accident report sheet and record accidents in their own registers. With a view to the future law, it should be postulated that the current state of the law used to be amended in this respect.

The mental element of the offence criminalised under the Article 221 of the Criminal Code involves intention. In the Polish doctrine of criminal law, it is indisputable that the offence in question may be committed with direct intent (*dolus directus*) or eventual intent (*dolus eventualis*).¹⁶ Neg-

¹⁶ See MAREK, A. *Kodeks karny: Komentarz*. 5. wyd. Warszawa: Wolters Kluwer, 2010, p. 493. ISBN 978-83-264-0275-3; GÓRAL, R. *Kodeks karny: Praktyczny komentarz*. 5. wyd. Warszawa: Zrzeszenia Prawników Polskich, 2007, p. 368. ISBN 978-83-87218-39-3; J. Piórkowska-Flieger in BOJARSKI, T. ed. *Kodeks karny: Komentarz*. 7. wyd. Warszawa: Wolters Kluwer, 2016, p. 645. ISBN 978-83-264-9387-4; Z. Siwik in FILAR, M. ed. *Kodeks karny: Komentarz*. 5. wyd. Warszawa: Wolters Kluwer, 2016, p. 1353. ISBN 978-83-264-9966-1; W. Wróbel in WRÓBEL, W. and A. ZOLL, eds. *Kodeks karny: Część szczegółna: Tom II: Część 2: Komentarz do art. 212 – 277d*. 5. wyd. Warszawa: Wolters Kluwer, 2017, p. 137. ISBN 978-83-8107-547-3; A. Ziótkowska in KONARSKA-WRZOSEK, V. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: Wolters Kluwer, 2016, p. 1007. ISBN 978-83-8092-163-4; P. Daniluk in STEFAŃSKI, R. A. ed. *Kodeks karny: Komentarz*. 1. wyd. Warszawa: C.

ligence is excluded. It means that negligent failure to prepare or to present the accident documentation is not punishable under the Article 221 of the Criminal Code.

Final conclusions

Finally, it can be concluded that criminalisation of failure to prepare or to present documentation on a work-related accident in the form of a criminal offence should be recognised as rational and justified. It aims at the protection of the rights of persons performing work to social insurance benefits in the event of work-related accidents and at the improvement of working conditions in the aspect of health and safety. By making punishable under the Criminal Code the act of failing to prepare or to present documentation on a work-related accident, the Polish lawmakers showed how seriously they view the protection of the rights of persons performing work.

The offence of failure to prepare or to present documentation on a work-related accident has been created in the form of a blanket provision. This should not raise legal objections since taking into consideration the nature of this offence; its statutory description obviously has to refer to the provisions of the labour and social insurance law, including the regulations.

De lege ferenda it should be postulated to change the law and to make the entities defined in the Article 5(1) of the Accidents Act obliged to prepare the statistical work-related report sheet and to maintain a register of work-related accidents.

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