

The Forensics in Criminal Proceedings: From Theory to Practice or How to Prevent Limitations

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Abstract: *In the beginning of the current century, a new paradigm of assessing the rules in criminal proceedings has been emphasized, more specifically in those criminal cases in which a new trend in applying methodology of criminal sciences is arisen. There is no doubt that the new concept of preventing limitations in assessing the means of the forensics which are directly involved in the process of delivering the criminal decisions has already been accustomed. The current paper focuses on the new concepts of the forensics applicable in criminal proceedings, in such a manner not to exceed the legal framework of criminal procedure law, on the one hand, and to prevent any limitations which should be imposed, on the other hand. In this context, it has been observed that the methodology of investigation through means and instruments of the forensics has reached new dimensions, unavoidable ones. The culture of the forensics is, at the moment, of high interest for the judicial activity of criminal proceedings and, for this reason, a new approach in this matter is expected to be expressed by the legal doctrine in criminal matters.*

Key Words: *Criminal Law; Criminal Proceedings; Forensics; Tools of Investigation; Judicial Decision; Doctrinal Approach; Jurisprudence; Indictment Act; Judgment Solution; Romania.*

Introduction

Why limitations on the forensics in criminal proceedings? This question has been arisen a few years ago, while the theory and practice both in the field of the forensics and the criminal procedure law have been involved in a kind of disputatious remarks and contradictory opinions, and created, therefore, a more unaccountable vision upon the legal provisions and solutions pronounced in criminal matters. The general context of the means of the forensics which are imperatively necessary in the core process of assessing the legal and pertinent judicial decision has currently no perspective to highlight a final decision for such dispute.

As a general principle of law, it is imperious to decree in a criminal case and to deliver the final decision in such a manner to avoid any unlawful solution. Moreover, only one additional discussion comes to finalize its misunderstandings and is less complicated to be expressed as a point-to-point observation. In this respect, no limitations are to be imposed in the larger spectre of the forensics although they are, in a few cases, pointed out by the legal doctrine.

It is obvious that there is no a unique solution presented by the legal doctrine, so that the legal framework has suffered, from a theoretical perspective, because of the misunderstanding, which has not been clarified till the moment. Consequently, it is the doctrine's responsibility to find pertinent and comprehensive solutions, whose harmonization with the legal provisions in criminal matters should imperatively be admitted both by the doctrine and jurisprudence. For this reason, the theory of the forensics and the practice expectations would be protected from any limitations which would be imposed. Moreover, the legal doctrine has taken into consideration that an illegal act of the forensics will develop and produce consequences on the judicial decision which will be given by the courts of law.

In a few doctrinaire opinions, the theoreticians have expressed their points of view in accordance with the new trends of the above-stated disputation. Although there is no unanimous solution found in the matter, the legal doctrine continues to deliver opinions more and more understood and closed to the solutions coming from practice. Following the trend, it is expected that a joint solution of how to prevent limitations in the matter of the forensic involvement in criminal proceedings will be submitted in the next future.

Principles of the forensic involvement in criminal proceedings

First of all, it should be emphasized that the criminal proceedings are from the very beginning in a close correlation with the forensics. It is thus a general remark, viewed as a principle of the forensic involvement in criminal proceedings. Having in regard its orientation to the basic procedures and rules which are usually used by the forensic experts in order to achieve their goals in the field of criminal proceedings, it is beyond

doubt that their role in strengthening framework of the forensic involvement in criminal proceedings should not claim any difficulties.¹

Despite this remark, the forensics has faced during the years several drawbacks, which could be viewed as limitations. From a theoretical point of view, it has been highlighted that “whilst there are standardised (and in some jurisdictions accredited) internal and external laboratory, regulatory and jurisdictionally based processes, practices and expert certifications in place to direct that expert evidence is firmly rooted in defensible analysis and inference, historic failings have served to illustrate that gaps may remain.”²

The jurisprudence also has been confronted with cases in which the forensics was unable to submit appropriate solutions to be taken into consideration by the courts of law in order to pronounce the legal and evidence-based solutions coming from the forensic reports. Although it is not possible for the courts of law to give decisions based exclusively on the forensic reports, the practice is usually accustomed with certain situations in which it would be possible if the case law will allow them to do so. In these circumstances, it is obvious that there is no limitation in the field of solving the criminal cases directly because of the management of the forensics and its involvement in practice.

The proportionality of the forensics in criminal proceedings came from the necessity to adapt the scientific tools of investigation to the needs of the judgment to finalize the criminal case through the legal decision. Basically, this principle creates some discussions from the point of view of the general concept of law and particularly of the general theory of forensic science, also advanced by the legal doctrine.³ In this matter, it has been pointed out that “due to the fact that the majority of current

¹ See OVERILL, R. E. and J. COLLIE. Quantitative Evaluation of the Results of Digital Forensic Investigations: A Review of Progress. *Forensic Sciences Research* [online]. 2021, vol. 6, no. 1, pp. 13-18 [cit. 2023-08-10]. ISSN 2471-1411. Available at: <https://doi.org/10.1080/20961790.2020.1837429>.

² See CARR, S., E. PIASECKI and A. GALLOP. Demonstrating Reliability through Transparency: A Scientific Validity Framework to Assist Scientists and Lawyers in Criminal Proceedings. *Forensic Science International* [online]. 2020, vol. 308, p. 110110 [cit. 2023-08-10]. ISSN 0379-0738. Available at: <https://doi.org/10.1016/j.forsciint.2019.110110>.

³ See MAGHERESCU, D. *Teoria generală a expertizelor criminalistice*. 1-a ed. București: Hamangiu, 2021, pp. 227-248. ISBN 978-606-27-1804-6.

court cases are publicly available and often dramatized in entertainment media, the public perception of forensic science can be misunderstood.”⁴

From a practical perspective, it has been admitted that, in order to proceed to carry out the forensic investigation, some specific standards have been taken into consideration by the scientists. They are primarily focused on the rules and instruments of achieving the forensic investigation reports. In this context, it has been advanced the idea that “usually, the tools and devices used by the forensic experts are divided into two categories. It is about the tools used to the crime scene investigation and the tools used in the activity of laboratory, knowing the fact that the forensic expertise involves two stages of achievement – the crime scene investigation and the investigation of laboratory.”⁵

In fact, the scientific tools and devices are authorized by the law and allow the forensic experts to carry out the forensic expertise during the criminal proceedings. In this matter, and taking into account the above-stated remarks, it is obvious that there is no limitation to be imposed by the practical issues for the judicial instruments of carrying out the criminal decisions.

Equally, the forensic involvement in criminal proceedings is a key principle applicable in several criminal cases, which requires specialized knowledge from the other sciences than the legal one. The right transposition of the knowledge into the criminal decisions which will be given by the courts of law at the end of criminal proceedings appears in this context as a natural connection to the general feature of the judicial process of solving the criminal cases. There is no ubiquity in relation with the other issues relative to criminal proceedings, as long as the declared scope of its activity is that of “protecting the innocent from wrongful convictions.”⁶

⁴ See BIJU, A., K. HAMBLY and A. JOSHI. The Complexity of Forensic Science in Criminal Investigations: Is There a Gold Standard?. In: M. CLAYTON and N. ABBAS, eds. *Voices of Forensic Science – Are We There Yet? The Golden Standards of Forensic Science* [online]. 2021, vol. 1, no. 1, pp. 7-26 [cit. 2023-08-10]. ISSN 2563-8874. Available at: <https://jps.library.utoronto.ca/index.php/forensic/article/view/36288>.

⁵ See MAGHERESCU, D. *Teoria generală a expertizelor criminalistice*. 1-a ed. București: Hamangiu, 2021, p. 228. ISBN 978-606-27-1804-6.

⁶ See DANNECKER, G. Truth-finding as an Intermediate Goal of Criminal Proceedings and Its Limits. In: Á. FARKAS, G. DANNECKER and J. JACSÓ, eds. *External, Internal and Criminal Investigations of Criminal Offences Affecting the Financial Interests of the European Union* [online]. 1st ed. Budapest: Wolters Kluwer, 2022, pp. 165-169 [cit. 2023-08-10]. ISBN 978-963-594-122-3. Available at: <https://euinv.uni-miskolc.hu/study>.

The only one solution which could be adopted by the judiciary in criminal matters is organized around the forensics more than a simple procedure carried out along with the other instruments which help the judicial bodies in making legal solution by solving the criminal cases. Consequently, the procedure of solving the criminal cases by means of the forensics is not a limitation imposed by the law from the general principles of criminal proceedings. Moreover, it particularly does mean alternative tools of criminal procedure law, able to intervene in serious cases of murder, crimes committed with violence, and so on.

In the matter of practice, it has been observed that these tools of the forensics do not involve the empirical studies of criminality, but they are just linked to the criminal cases from the moment of the forensic experts' engagement to submit the forensic reports. In fact, the forensic involvement in criminal proceedings is the result of the interdisciplinary character of the judicial procedure, which allows the forensic science to submit conclusive remarks on the issues of criminal proceedings.

Taking into consideration all these aspects of the theory and practice, it could be emphasized that the principle of the forensic involvement in criminal proceedings means useful judicial instruments of finding appropriate solutions, in purpose to achieve the best practice results coming from the forensics. Moreover, the science of the forensics does not know any limitation by the judicial bodies who are particularly interested in gathering information and conclusive evidence which could be used for their effort in giving solution and decision-making process.

Current jurisprudential achievements

According to the general theory of forensic science which advances the idea of no existing limitations of the forensics in criminal proceedings, it is obvious that the practice has been directed to respecting the general principles of law, on the one hand, and to respecting the specific principles of the forensics, on the other hand. The main target of the judicial bodies has been focused on the issue of how to prevent limitations in the matter of developing the criminal proceedings within the legal framework.

- (1) Certain solutions pronounced in the field of jurisprudence are thus relevant in the field of preventing limitations regarding the forensics in criminal proceedings. These solutions are more comprehensive viewed and assessed in the criminal cases of serious crimes, while

the involvement of the forensic science means a decisive process. Among other cases, analysing the drugs issues related to the forensics in criminal proceedings appears as a well-done solution to examine those cases in which the procedure of gathering evidence is in a close relation with the forensics and its scope.

In the matter of fact, trafficking in cigarettes committed in transnational context supposes the interference of the forensics in criminal proceedings. In order to clarify the source of fiscal tobacco stamps applied on the cigarette packets stemming from trafficking in illegal operations, the court of law has pointed out that it is necessary to order their examination under the forensic expertise.⁷ The forensic report submitted in relation to this solution has highlighted that “the owner of the licence trading rights for tobacco has reported that the blanks picked up by the investigative bodies are not ordered by the [...], and regarding the fiscal stamps [...], it has been established that they were not made by a poly-graphic industrial unit specialized in manufacturing the fiscal stamps [...]”.⁸ Considering these aspects, it has been established that the examined cigarettes are counterfeit goods. At the same time, during the forensic expertise, the experts have stated that the samples of cigarettes are “tobacco derived products, tobacco precursors. It has been also stated that such derived products can be used in manufacturing cigarettes and can be added to a mixture of tobacco for cigarettes.”⁹

The High Court of Cassation and Justice of Romania has considered illegal and unjustified the solution of criminal sentence pronounced by the first instance to acquit the defendants. The *de facto* situation has been analysed in accordance with the offences committed and the indictment act submitted by the prosecutor to the court of law, as well as with taking into consideration the situation of criminal case. It has been appreciated, under the clandestine *modus operandi* of committing illegal operations, the huge number of perpetrators involved and the activity of trafficking in cigarettes stored in a clandestine industrial unit, that the products

⁷ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 257/A/2022 [2022-12-09]*.

⁸ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 257/A/2022 [2022-12-09]*.

⁹ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 257/A/2022 [2022-12-09]*.

were stored in a clandestine commercial space.¹⁰ The entire criminal activities have stated that there is no an occasional association of criminal purpose, but more particularly the defendants have understood that they proceeded to relocate an illegal cigarette manufacturing unit, which consisted both in moving the tobacco and the additional materials as well.¹¹

(2) The jurisprudential solutions pronounced by the courts of law provide a constant trajectory in the matter of assessing the forensic reports in such a manner to avoid any limitations which might be imposed by the forensic science. In fact, no involvement of the forensics should be accepted by the courts of law, beside the legal provisions regulated by the Code of Criminal Procedure. This is because in cases of culpable homicide, the forensic involvement in pronouncing the judicial decision is ordered by the court of law, which cannot exceed the law provisions.

In this context, the court of law has stated, based on the forensic expertise, that the causality relation between the culpable behaviour of the defendant and the victim's death existed and, consequently, the defendant has been convicted in accordance with the form of guilt in committing that crime. The first instance's solution has been subject of criticism by the defendant who has argued that the crime is not provided by the criminal law,¹² and, therefore, he is entitled to be exonerated from the criminal liability.

The forensic expertise report does not create a basic framework in which the judicial bodies would experience difficulties in assessing its conclusive results.¹³ However, based on these conclusions submitted by the forensic expert to the court of law, the defendant has opined that between the legal behaviour of criminal conduct and the result of the vic-

¹⁰ See Von LAMPE, K. The Illegal Cigarette Trade. In: M. NATARAJAN, ed. *International and Transnational Crime and Justice* [online]. 2nd ed. Cambridge, UK: Cambridge University Press, 2019, pp. 49-54 [cit. 2023-08-10]. ISBN 978-1-108-59729-6. Available at: <https://doi.org/10.1017/9781108597296.008>.

¹¹ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 257/A/2022* [2022-12-09].

¹² See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022* [2022-11-17].

¹³ See YOUNGGREN, J. N., M. C. GOTTLIEB and C. L. BONESS. Forensic Consultation. In: C. A. FALENDER and E. P. SHAFRANSKE, eds. *Consultation in Psychology: A Competency-based Approach* [online]. 1st ed. Washington, DC: American Psychological Association, 2020, pp. 239-251 [cit. 2023-08-10]. ISBN 978-1-4338-3141-6. Available at: <https://doi.org/10.1037/0000153-014>.

tim's death there is no causality relation¹⁴ which could generate his punishable liability.

The forensic conclusions do not allow assessments in terms and conditions provided exclusively by the defendant, as long as it is a subjective opinion expressed on the criminal case in which he/she was convicted by the court of law. Consequently, the expert opinion should primarily be analysed by the court of law, which is thus entitled to establish the typical feature of the criminal conduct. Therefore, it is not enough to simply verify the similitudes between the criminal conduct provided by the criminal law and the criminal behaviour subject to the criminal liability. Moreover, it is required to verify whether the result produced by the crime committed is the consequence of the criminal conduct which supported the crime.¹⁵

Although the causality relation is not expressly stated by the incrimination rules which regulate the criminal act, its existence is, under the logical syllogism, derived from the result provided by the rules as the consequence of the criminal behaviour. According to these remarks, the court of law has referred to "the theory of objective imputing of result, established in different foreign legal systems, the theory which, even verified, and equally the causality relation is constituted in a veritable method of verifying the imputable character of the result produced to the perpetrator. The method supposes a two-step mechanism of verifying: in the first step, it is searched if the action of factor has created a dangerous state for the social value protected, followed by the second step, to verify if this dangerous state has immediately caused the typical result."¹⁶

Theoretically speaking, the forensic report could provide information on the criminal conduct approached by the defendant in committing the criminal act, but any theoretical remark should be taken into account by the court of law in assessing the forensic conclusions and pronouncing the judicial decision. In other words, the court of law will not be held on the forensic theoretical appreciation regarding the *de facto* elements of the crime committed.

¹⁴ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

¹⁵ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

¹⁶ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

Actually, such proposals could be submitted by the forensic experts, but the courts of law have imperatively to analyse the entire circumstances in which the crime was committed. From this point of view, it has been pointed out that “the importance of assessing the forensic expertise reports results also from the manner in which the critics of the parties involved, related to the forensic conclusions, are rejected by the judicial bodies, as long as there is no contrary forensic opinion provided in the criminal case. Nevertheless, in a situation in which there are contrary opinions expressed by an independent forensic expert called by the parties involved in criminal case, the judicial bodies are not obliged to affirm a positive value for these opinions.”¹⁷

From a judicial point of view, it has been stated that the theory of “equal risk” advanced by forensic expert does not concord with the judicial system’s imperative of finding the truth in criminal cases and convicting the defendant in accordance with the guilt of committing the crime. By the definition, the defendants are interested in finding the most appropriate legal ways of exonerating themselves from criminal liability¹⁸ and, in order to achieve this goal for them, they are usually prone to changing the judicial framework of analysing the criminal case by the court of law. In this regard, the defendant has used the theory of “equal risk” under the above-stated second step of analysing the criminal case, also called as the theory of objective imputation.¹⁹

Controversies and proposed solutions

In order to avoid any form of limitations which do not fit to the judicial system’s rules, principles and procedures, it is imperative for the parties involved in the criminal cases to leave the controversies out and to propose some pertinent solutions which could be basis for the next solutions covered by the courts of law in practical cases.

¹⁷ See MAGHERESCU, D. Assessing the Means of Evidence by Forensic Reports in Criminal Cases of Business. *Perspectives of Law and Public Administration* [online]. 2022, vol. 11, no. 4, pp. 532-544 [cit. 2023-08-10]. ISSN 2601-7830. Available at: <http://www.adjuris.ro/revista/articole/An11nr4/6.%20Lucrare-2-Magherescu%20Delia%20EN.pdf>.

¹⁸ A comprehensive point of view could be viewed in a similar judicial framework in ZARAFIU, A. and C. BĂLAN. Despre posibilitatea pronunțării soluției de achitare în procedura simplificată a recunoașterii învinuirii. *Doctrină și Jurisprudență*. 2019, no. 1, pp. 157-170. ISSN 2501-8515.

¹⁹ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

In order to respect the judicial framework created as a consequence of the crime committed while the court of law has been invested with, the forensic involvement in the final decision, which will be pronounced by the court of law, is determined by the manner in which the case is assessed by the judges.²⁰ Approaching the forensics from the perspective of assessing the report conclusions in those criminal cases in which it has been ordered, some issues could arise:

- ✚ the proposed solution submitted by the forensic expert could not be always in concordance with the judges' assessment;
- ✚ the dangerous state created by the defendant could be diminished by the forensic expert unintentionally;
- ✚ the forensic expert could exceed his/her own competencies and bear away deliberately from the real issues stated by the courts of law.

Despite the above-stated remarks which are usually discussed in practice, the controversies should be analysed regarding the typical result of the crime committed, which, from the point of view of the criminal investigative activities carried out, has exceeded the defendant's control.²¹ Moreover, the issue of "equal risk" supposes that, in some particular circumstances, the imputation in criminal matters will be removed in those cases in which "it is stated that the result would also have produced certainty in the hypothesis of alternative lawful perfect conduct. In this situation, the dangerous state is not that materialized in the result, but is being produced indifferent of the permissible or impermissible character of the behaviour analysed."²²

Consequently, it has been appreciated by the defence that the defendant is entitled to reclaim the equal risk in the involvement in criminal imputation, strengthening the above-stated theory on the alternative criminal conduct and, therefore, understanding the result of the criminal act committed.

Moreover, the syllogism of *in dubio pro reo*, applied as a fundamental judgment of criminal proceedings in those cases in which there is no evi-

²⁰ See MAGHERESCU, D. Assessing the Means of Evidence by Forensic Reports in Criminal Cases of Business. *Perspectives of Law and Public Administration* [online]. 2022, vol. 11, no. 4, pp. 532-544 [cit. 2023-08-10]. ISSN 2601-7830. Available at: <http://www.adjuris.ro/revista/articole/An11nr4/6.%20Lucrare-2-Magherescu%20Delia%20EN.pdf>.

²¹ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

²² See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022 [2022-11-17]*.

dence enough to support the indictment act on the crime committed, is not equally assessed to the final decision made by the court of law.²³

Basically, there is no judgment to consider that a perpetrator could be exonerated by the criminal liability in cases in which the result of his/her own criminal behaviour would be the same if the legal provisions would have been respected. For this reason, the court of law has been invested with the defendant's request of appeal in cassation with the main reason that the offence is not incriminated by the criminal law in force which, in fact, directs to the impunity solution.²⁴ The reason has been submitted by defence to the higher court of law, whose argument has been based on that the first instance's solution is more featured by the reasoning of missing probative support, infringing the principle *in dubio pro reo*.

Despite this general remark which has been submitted by the defence in the last stage of appealing to the higher court of law, it is appreciated that the criminal cases should imperatively be assessed from the perspective of the objective theory of criminal liability,²⁵ on the one hand, and the consequences of the crime committed, on the other hand, being concordant with the connection between the objective elements of the crime committed. Otherwise, the defendant would be exonerated from the indictment act provided by the prosecutor.

A similar situation has been discussed by the legal doctrine in criminal matters, which has emphasized the issue of establishing the criminal liability in cases of attempt.²⁶ For this reason, it has been highlighted that "it should be assumed that within the "irremovable doubts" referred to in this principle, apart from the doubts as to how the event subjected to criminal law evaluation proceeded, there are also doubts as to how it

²³ See SUMMERS, S. J. The Epistemic Ambitions of the Criminal Trial: Truth, Proof, and Rights. *Quaestio facti* [online]. 2023, vol. 4, no. 1, pp. 249-272 [cit. 2023-08-10]. ISSN 2604-6202. Available at: https://doi.org/10.33115/udg_bib/qf:i1.22809.

²⁴ See *Decision of the High Court of Cassation and Justice of Romania Ref. No. 594/RC/2022* [2022-11-17].

²⁵ See FEELEY, M. M. Criminal Justice as Regulation. *New Criminal Law Review* [online]. 2020, vol. 23, no. 1, pp. 113-138 [cit. 2023-08-10]. ISSN 1933-4206. Available at: <https://doi.org/10.1525/nclr.2020.23.1.113>.

²⁶ See WANTOŁA, M. Criminal Liability for Attempt. An Attempt at a New Perspective. *Czasopismo Prawa Karnego i Nauk Penalnych* [Journal of Criminal Law and Penal Studies] [online]. 2021, vol. 25, nr 4, pp. 69-93 [cit. 2023-08-10]. ISSN 2719-6569. Available at: <https://www.czpk.pl/index.php/zeszyty-archiwum/michal-wantola-odpowiedzialnosc-karna-za-usilowanie-proba-nowego-spojrzenia>.

would have proceeded, had it not been for the perpetrator's apprehension. On the other hand, assuming that a profit-driven perpetrator, aware of the value of two things [...], would take the less worthy one, would be far from common sense and, therefore, impossible to accept."²⁷

Conclusions

The study conducted on the topic of the current paper has concluded certain points of view regarding the newer vision of the legal doctrine expressed on the forensic involvement in criminal proceedings. Although there is no unitary solution advanced by the doctrine, the jurisprudential references come to emphasize that the new generation of approaching the issue of the forensics in criminal proceedings is already arisen.

The issue of the forensics in criminal proceedings is currently discussed by the legal doctrine from several perspectives. One of the main reasons of approaching the judicial solutions delivered in criminal cases with the observance of the legal provisions in criminal matters accordingly is focused on the respect of the theory of the "multidimensional assessment" and the practice observation.

The issue also involves the manner in which both theoreticians and practitioners are responsible for the idea of how to prevent limitations in those criminal cases in which the judicial bodies have ordered the forensic expertise in order to clarify the basic elements regarding the crime committed, the perpetrator as well as the circumstances in which the crime was committed.

Last but not least, the study has revealed that the evidence submitted through the forensic reports in criminal cases of serious crimes (i.e., violent murder) should be analysed and assessed in accordance with the entire means of evidence administered by the judicial bodies, both in the investigative stage and in the judgment stage of criminal proceedings, without any infringement of the defendant's procedural rights.²⁸ The same situation should be provided in cases in which the procedural cir-

²⁷ See WANTOŁA, M. Criminal Liability for Attempt. An Attempt at a New Perspective. *Czasopismo Prawa Karnego i Nauk Penalnych* [Journal of Criminal Law and Penal Studies] [online]. 2021, vol. 25, nr 4, p. 70 [cit. 2023-08-10]. ISSN 2719-6569. Available at: <https://www.czpik.pl/index.php/zeszyty-archiwum/michal-wantola-odpowiedzialnosc-karna-za-usilowanie-proba-nowego-spojrzzenia>.

²⁸ See ALLEN, R. J., J. L. HOFFMANN, D. A. LIVINGSTON, A. D. LEIPOLD and T. L. MEARES. *Comprehensive Criminal Procedure*. 5th ed. New York: Wolters Kluwer, 2020. 1776 p. Aspen Casebook Series. ISBN 978-1-5438-0436-2.

cumstances of the criminal case admit that there is no reason to impose limitation and to generate different judicial solutions in practice.

Considering all these aspects, the major assessment of the forensic involvement in the field of criminal proceedings is thus carried out in accordance with the respect of the entire principles of the justice in criminal cases. In this regard, the solutions delivered by the courts of law mean a useful judicial instrument as a guarantor of the fact that any limitation will be promoted with the infringement of the legal provisions in criminal matters.

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