

SUMMARY OF THE DOCTORAL DISSERTATION

‘An expert report of a scientific or a scientific and research institute’

An expert’s report is one of the most important and the most interesting evidence in civil procedure. Both rich literature and judicial practice, concerning almost every aspect of its examination, confirms it. Usually on the side of an expert’s report is the issue of an expert’s report of a scientific or a scientific and research institute (which is a different form of the former) mentioned. It is caused by the relatively uncommon admittance of this evidence by civil courts. Nevertheless, what was shown in this dissertation, it does not mean that its analysis is unnecessary, especially since some issues concerning it still raise questions. It is mostly related to the lack of comprehensive regulation of this evidence. This aside, it can be expected that because of the constant development of science this evidence will be admitted by courts more frequently.

In this dissertation four research goals were stated, carried out in four chapters. It also consists of an introduction, conclusion and bibliography.

First aim was to define a scientific or a scientific and research institute. This matter was covered in the first chapter. It was essential to precise which entities can issue a report in civil procedure. First chapter also includes the analysis of terms ‘scientific institute’ and a ‘scientific and research institute’. It was emphasized that the term ‘scientific and research institute’ has – on the grounds of the Code of Civil Procedure – autonomous meaning. Also the status of the “Opiniodawczych Zespołów Sądowych Specjalistów” was acknowledged and then considered whether it can be a scientific and research institute. It was also indicated which entities can issue a report as a scientific and research institutes. As a result a definition of a scientific and research institute was presented.

Another aim – accomplished in the second chapter – was to determine the rules of admitting the evidence of an expert’s report of a scientific and research institute. Regulations concerning this issue refer to expert witnesses, therefore natural persons. Applying them to a scientific and research institute, which is an organisational unit, raises reasonable doubts. Firstly, prerequisites for issuing this kind of evidence were defined, including consideration whether the court – in situations when special knowledge is required – is obliged, *ex officio*, to admit an expert’s report of a scientific and research institute. Also the cases when it is obligatory to issue an expert’s report were discussed. It was examined, whether, in those situations, it is acceptable by the court to request an expert’s report of a scientific and research institute. Also it was considered if the rule of separation the roles of a witness and an expert witness also concerns scientific and research institute. Furthermore, the general prerequisites regarding request to provide evidence through an expert’s report of a scientific and research institute and regarding the decision to admit such an evidence were discussed.

Third goal was to characterise comprehensively the procedural situation of a scientific and research institute and its employees. This matter was covered in the third chapter. Firstly, it was examined who can be considered as an institute employee and if those persons have an expert’s witness status. It was then analysed which procedural rights and obligations of an expert’s witness also refers to scientific and research institute and its employees. Consequently it was also studied whether scientific and research institute and its employees can be fined.

Furthermore, it was explained how the institution of excluding an expert witness applies to scientific and research institute and its employees. Also the influence of the liquidation and transformation of an institute on its procedural situation was examined. With this also the situation of entities, which issue reports as the scientific and research institutes most frequently, was considered. Last part of this chapter was devoted to the analysis of the criminal and civil liability of a scientific and research institute and its employees.

The last aim was to precise the prerequisites for an expert's report of a scientific and research institute and the criteria of its assessment by the court. This matter was covered in the fourth chapter. Firstly, the process of preparation of an expert's report of a scientific and research institute was presented. Then the character of an expert's report of a scientific and research institute was analysed. It was considered whether an expert's report of a scientific and research institute presents views of institute's employees assigned to prepare it or rather views of the institute, as a abstract entity. Based on the findings it was then discussed what requirements should an expert's report of a scientific and research institute meet. Attention has been paid to a particular role of the expert's report authors' signature. Furthermore, it was examined whether a scientific and research institute can issue a joint report. Last part of the chapter was devoted to the issues of a court's supervision of the expert's report of a scientific and research institute and removing its defects. Also with this, the problem of assessment of the expert's report of a scientific and research institute as a scientific evidence was raised.

The conducted research resulted not only in forming *de lege ferenda* proposals, which if taken into account would resolve doubts about an expert's report of a scientific and research institute, but also in the interpretation of current regulations which can contribute the most to the reliability of evidentiary proceeding.