The broad understanding of the concept of “document” in the doctrine of criminal law determines that it can be any object or other recorded information medium. The legal definition of a document includes the criteria of form and legal meaning. According to the criterion of form, a document is any object or other recorded information medium. And according to the meaning of the legal criterion, a specific law must be associated with the document, the content of which shows that it constitutes evidence of a law, a legal relationship or a circumstance of legal significance. This means that the “content” it contains determines whether the item is legally necessary. If the object itself does not constitute evidence of law, it will not be a document. Such a broad understanding of the concept of a document in the Act of June 6, 1997, Penal Code, allows all types of carriers of tangible and intangible information to be recognized as documents. The technique of making and reading the information contained therein is irrelevant here. Therefore, we assume that a document is, for example, a sheet of paper, a computer printout, a letter sent by fax, a photograph, a CD, a hard drive, a copy, a photocopy, a magnetic tape, an electromagnetic wave or an acoustic wave or other objects and information carriers.

Contained in Article 115 § 14 of the Penal Code the definition of a document allows for an autonomous understanding of this concept in the area of criminal law. The origin of the document is irrelevant here: it may be a private or public object. According to Article 115 § 14 of the Penal Code we can only consider an object or other recorded information medium as a document which itself constitutes evidence of a right, a legal relationship or a circumstance of legal significance. Therefore, we do not consider

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2 Journal of Laws of 2022, item 1138; hereinafter referred to as k.k.
unfilled forms, stamps, seals or registration plates as documents under criminal law.

However, such items or information carriers as: letters to public institutions, ID cards, payment proofs, VAT invoices, school ID cards, student ID cards, insurance policies, season tickets, gift vouchers, telephone cards or slot machine cards are documents in accordance with court decisions.

In the current Penal Code, the legislator clearly recognizes crimes against documents. All crimes against the credibility of documents are located in a special part of the Penal Code, creating Chapter XXXIV of crimes against the credibility of documents for this purpose.

Article 270 § 1 of the Penal Code treats the crime of material forgery of a document in three basic types of prohibited act. This offense is punishable by a penalty depending on the type of prohibited act, and the prohibited act is:

a) forgery of a document – is the execution of the document in whole or in part, while maintaining the appearance as if the document came not from the perpetrator, but from another person;
b) forging a document – giving an existing authentic document by an unauthorized person a different content than the one originally possessed;
c) using a counterfeit or forged document as an authentic one - this is using the function of the document's legal meaning.

The methods and technical means of counterfeiting and altering a document are different and depend on the item bearing a human signature. Counterfeiting or altering a document may be done, for example, by preparing a document, adding a note, deleting or crossing out the content, and in documents on electronic media, creating new documents or making changes, using appropriate electronic devices, e.g. a computer, scanner or copier.

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3 See, decision of the Supreme Court of March 19, 2003, ref. no. III KKN 207/01, Lex No. 78408; decision of the Supreme Court of February 25, 2005, ref. no. I KZP 33/04, OSNwSK of 2005, No. 1, item 438; judgment of the Supreme Court of May 23, 2002, ref. no. V KKN 404/99, OSNKW of 2002, no. 9–10, item 72.

4 See decision of the Supreme Court of November 29, 2006, ref. no. I KZP 27/06, OSNKW of 2006, no. 12, item 110; judgment of the Supreme Court of March 11, 2004, ref. no. III KK 336/03, Lex No. 109458; judgment of the Supreme Court of March 8, 2007, ref. no. II Aka 305/06, OSA in Katowice of 2007, no. 2, item 2nd; resolution of the Supreme Court of October 23, 2002, ref. no. I KZP 31/02, OSNKW of 2002, no. 11–12, item 95; ed. on the basis of P. Daniluk, Explanations of statutory expressions [in:] R.A. Stefański (ed.), Penal Code. Comment, Warszawa 2023, pp. 824–827. Identification signs include: entrance tickets, transport tickets, baggage checks, numbers in cloakrooms or parking lots, these are the so-called debt documents within the meaning of Art. 115 § 14 of the Penal Code

5 Art. 270 § 1 of the Penal Code in the wording of this Act of July 7, 2022, entered into force after 3 months from the date of announcement.

6 See W. Wróbel, Commentary on art. 117–277 Penal Code [in:] A. Zoll, Penal Code. Comment. Particular part, vol. 2, 2006, p. 1324. The mere possession of a forged registration certificate, driving license or school ID card does not constitute criminal use, but the presentation of these documents to the controlling authority will constitute a crime.

7 See decision of the Supreme Court of February 28, 2008, ref. no. V KK 238/07, “Prokuratura i Prawo” 2008, no. 6, item 2. The use of a copier has the features of forging a document. This is one of the simplest and often used methods of forging a document.

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Counterfeiting methods and technical ways of altering a document are constantly developing and improve thanks to new and generally available production techniques and technologies and signing the document.

In the process of forging a document, its authenticity is sometimes questioned. If the authenticity is questionable, it is a crime of document forgery.

Falsehood defined in Art. 270 of the Penal Code, is the so-called material falsehood. In this case, forgery, i.e. altering or forging a document, or using a forged document as authentic, is punishable. Not only the person who forges or forges a document is subject to punishment, but also the person who uses such a document as authentic.

The amendments and changes to the Penal Code introduced in 2022 tighten sanctions for crimes under Art. 270 §1 of the Penal Code by eliminating fines and restrictions on freedom.

The offense specified in Art. 270 § 1 of the Penal Code, is currently punishable by the legislator with imprisonment from 3 months to 5 years.

Art.270 § 2 of the Penal Code Anyone who fills out a form with someone else’s signature, contrary to the will of the signee and to his detriment, or uses such a document, shall be subject to the same penalty.

Thus, the legislator defines a separate offense of unauthorized filling out of a form. A form within the meaning of Art. 270 § 2 of the Penal Code is any object bearing an authentic signature (but not of the perpetrator of the crime) of a human being, which, due to specific formal or factual circumstances, may constitute a document. The signature must be authentic and cannot be a copy, scan or facsimile of the signature.

In art. 270 § 2a of the Penal Code the legislator additionally specified that in the case of a minor event, the perpetrator is subject to a fine, restriction of liberty or imprisonment for up to 2 years. The introduction of a minor incident in Art. 270 § 2a of the Penal Code, clearly resulted from the experience of judicial practice, indicating that among the acts that meet the criteria of an offense under Art. 270 § 1 of the Penal Code, there are often trivial cases in which it is possible to apply the institution of conditional discontinuation of criminal proceedings to the perpetrator. In art. 270 § 2a of the Penal Code the legislator determines the privileged type of crime under Art. 270 §1 and §2 of the Penal Code, which consists in introducing a less serious case. When establishing the criteria for a minor accident, it is necessary to take into account the subjective and objective elements of the crime, where the objective elements are mainly

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8 Journal of Laws of 2022, item 1726, item 1855.
9 R.A. Stefański (red.), Kodeks..., wyd. cyt., s. 1793–1794, powrót do konstrukcji prawnej z 1932 r.
11 See P. Lewczyk, An accident of minor importance in Polish criminal law (de lege lata comments and de lege ferenda postulates), “Prokuratura i Prawo” 2008, no. 7–8, pp. 27–29. A minor accident attracts a milder penalty. The criteria that allow a given act to be classified as a privileged type are decisive.
the perpetrator’s method of action, time and place, the nature and extent of the damage caused, and the type of protected property that may be adversely affected by the crime. However, the subjective elements are primarily forms of intention, such as well-thought-out or sudden intention, and forms of unintentionality such as carelessness, recklessness, and all motives, motives and goals of the perpetrator’s actions. In the case of the classification of crimes, an incident of minor importance is determined by the objective and subjective elements related to and resulting from the act, which have a direct and significant impact on reducing the degree of social harmfulness of the act in comparison to the basic type\textsuperscript{12}. In fact, this may concern, for example, a slight change in the content of the forged document in relation to the original and the will of the issuer.

In the process of determining the rules of liability for counterfeiting and forging a document, the legislator provided in Art. 270 § 3 of the Penal Code punishability of preparing a material falsehood of document for a crime\textsuperscript{13}. He found that preparatory activities for this type of falsehood are punishable. It is also important for the current Penal Code to define forging and counterfeiting as the so-called material falsehood. This material nature of falsehood consists in a physical (material) attack on the authenticity of the document\textsuperscript{14}. The legislator in § 3 of the Penal Code specifying the causative activities, it indicates that preparation to commit a crime is punishable under Art. 270 § 3 of the Penal Code and preparatory activities, e.g. purchasing paper, preparing forgeries, copies or stealing blank forms, forms with the intention of using them or using them in criminal activities. Preparation and action to falsify documents or their use may only be carried out intentionally and with direct intent.

Analyzing the form of the act, the signs of the effect, i.e. the nature of the crime under Art. 270 § 1 of the Penal Code it should be assumed that this crime can be committed only in the form of an action and in the scope of counterfeiting and forging documents it is a material (consequence) crime, and in the scope of use it is a formal (no effect) crime. Whereas in § 2 is of a material nature, and in relation to the use of the completed form, it is a formal (without effect) offense. The subject of the crime under Art. 270 Penal Code in all its varieties of a prohibited act, the perpetrator of the crime and prohibited act and any person capable of incurring criminal liability may be the perpetrator. According to the legal doctrine, it is a common crime. The subjective side of Art. 270 § 1 of the Penal Code counterfeiting and forging documents indicates that they can only

\textsuperscript{12} See Art. 115 § 2 of the Penal Code, An accident of minor importance is characterized by the predominance of mitigating objective and subjective elements, which makes it an act with less social harmfulness. See the decision of the Supreme Court of June 13, 2002, ref. no. VKKN 544/00, OSNKW 2002, no. 9–10, item 73.

\textsuperscript{13} A. Herzog, Explanations to art. 270–277d [in:] R. A. Stefański (ed.), Penal Code..., ed. cit., pp. 1793–1794. Thus, the enumeration of causative activities of such preparation for material falsehood as contained in Article 265 § 3 of the Penal Code was omitted. from 1969

be committed intentionally with direct (directional) intention, while in the scope of using the document they can be committed intentionally with possible direct intention. Prohibited act from Article 270 § 2 of the Penal Code may be committed intentionally with direct or eventual intent. In the case of a completed form with a signature, the subject party does not require any intention to use it later, and the perpetrator must be aware that he is acting inconsistently with with the will of the person signing the document.\(^{15}\)

In Poland, both the Penal Code of 1969 and the currently applicable Penal Code of 1997 in Art. 270 § 1\(^{16}\), as well as commentators, jurisprudence and the doctrine of criminal law, as well as criminologists, consistently and unanimously distinguish two forms of document falsification:
— forging a document
— altering the document.

The above-mentioned forms of acting on a document are collectively called material falsification of the document\(^{17}\). The position represented by Hubert Kolecki is completely consistent. Therefore, what is already produced or what was previously authentic can be faked. In this understanding, an originally authentic document becomes a forged document after it has been processed (modified). According to H. Kolecki, a counterfeit document is an imitation of the original of an authentic document. It is therefore not an original „document“. According to H. Kolecki, due to the scope of counterfeiting and the type of „initial elements“ used, the following groups of counterfeit elements can be distinguished:

1) Forged documents using an authentic form, blank form, etc. (ID card, vehicle registration certificate, passport booklet, high school leaving certificate, school leaving diploma, etc.).

2) Forged documents using a forged form and filling in parts that require manual or machine completion and stamping.

3) Forged documents, prepared on a sheet of paper signed in blank by another person (containing the original signature of another person), against the knowledge and will of that person.

4) Forged documents prepared on a piece of paper containing a photocopy of another person’s authentic signature.

5) Completely forged documents (entirely).

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\(^{16}\) Journal of Laws of 2022, 1138, as amended; See judgment of the Supreme Court of December 15, 2000, ref. no. V KK 363/19, Lex No. 3301958. The purpose of Art. 271 § 1 of the Penal Code is not to sanction the preparation of every document that is not true, but only of such categories of documents that have the value of public trust.

The basic concepts of documents described above constitute the starting point for forensic examination of the authenticity of documents in order to determine\(^\text{18}\):

1) Authenticity (graphic image), signature (handwriting), which does not constitute a statement of the originality of the signature (handwriting); both original signature and

and its copy (photographic, xerographic or autobiography printed in thousands of copies) have an identical graphic image. The graphic image ("appearance") of these signatures is authentic; it is consistent with the image of the person's undisputed signatures;

2) The originality or authenticity of the signature appearing on the questioned document does not mean (automatically) that the entire document with such a signature is authentic;

3) Determining the form of forgery of a document, signature, etc.

According to H. Kołecki, the same discussed concepts regarding documents may often have a different common sense and a different meaning in the context of criminal, civil and administrative law or in forensics. For the proper and clear understanding of these terms by the representatives of the above-mentioned disciplines and for the purposes of unambiguous communication, it is often necessary to specify in advance the meanings given to these terms by the participants of the dispute (concerning the document) that we will encounter in practice\(^\text{19}\). In every scientific and legal discipline, the conceptual meaning document determines the proper understanding of the concept, term and its meaning.

In the light of the above reflections and for the purposes of this study, taking into account the position of H. Kołecki and Jerzy Wojciech Wójcik, we assume that\(^\text{20}\):

1) Original document - a document drawn up in one copy, the first copy signed by the issuer, a document drawn up in several copies, the second and subsequent copies of which are technical copies of the first, all copies of ("ready-made") documents produced in series, e.g. banknotes, stamps, tickets, bands, etc.

2) Copies of the document - photographic, photocopy, typed, printed and similar reproductions of original documents. Copies can be authenticated and will then play the role of the original.

3) Authentic document is synonymous with original and "real" document (like an artist’s painting). Colloquially, it is a "real" document coming from the "real" (authorized issuer).

4) A counterfeit document is an imitation of the original of an authentic document and is not an original "document".

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\(^{19}\) Ibid., pp. 27–28. Attributing a colloquial meaning to some concepts - taken from Polish dictionaries - may in many cases lead to misunderstandings.

\(^{20}\) Ibid., pp. 25–26. The division of counterfeit documents shown above results from the thought chronology reflected by H. Kołecki and J.W. Wójcik.
The terms presented above constitute the basis for further analysis of terms in the study in the linguistic, systemic, teleological, functional, logical and historical aspects.

According to the positions represented by criminal law experts, the correct view is that in Polish criminal law, there are currently two forms of document falsification:

1) Counterfeiting - this is a form of document forgery, which involves preparing a document anew and creating the appearance of the document’s authenticity. However, this document does not come from the same person on behalf of whom it was prepared. The purpose of counterfeiting is to create a new document with a similar model or similarity and in the form of an authentic document. The counterfeiting may concern the entire document or only a fragment of it. The counterfeiter can use the original elements available here alongside non-original ones imitating the appropriate security features.

2) Alteration - this means making changes to an existing authentic document (e.g. introducing a note and a stamp print in the content of the registration certificate, i.e. the existence of an original document, but with altered content regarding the validity of the date of subsequent technical inspections). Most often, it involves mechanically or chemically removing one or several existing fragments of the original document and replacing it with others.

Therefore, counterfeiting means creating a document anew while maintaining the appearance of an authentic document. Alteration is characterized by changes made to the authentic document. When converting, the process of replacing old content with new one according to the needs of the converter is most often used. The legislator additionally specified that in addition to counterfeiting or forging a document, the use of a forged or altered document as authentic is also sanctioned. This additional definition introduced significant changes to the crime specified in §1 of Art. 270 Penal Code (called material falsity of the document) and resulting from the above-mentioned paragraph, is expressed in the terms – „or uses such a document as authentic”, i.e. presenting this document to an authorized person (private person or institution), e.g. during an inspection, identification, making a purchase on credit, presenting the document to a state or local government body or an authority conducting evidence proceedings.

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22 See S. Pikulski, Selected..., ed. cit., pp. 120–126; See C. Grzeszczuk (ed.), Criminal investigations of writing, Warsaw 2006, pp. 183–184. The term “content” should be understood as all conventional signs, such as prints, stamps, lines, points, etc. The changes and transformations made in the authentic document result in new content and meaning of the text.
However, it should be emphasized here that a necessary condition for punishing a forged or altered document is the use of the forged or altered document as authentic, and not only its actual possession without intentional use in a criminal trial.

In order to systematize the issue of document forgery in criminal law, and taking into account the definition of the term “forged and altered document” and demonstrating the significant differences that divide them, the judgment of the Supreme Court (hereinafter referred to as: the Supreme Court) of November 27, 2000\(^{23}\) is important, in which The Supreme Court defines and provides for two forms of document falsification: forgery and alteration. A document is counterfeit when it does not come from the person on whose behalf it was prepared, and it is forged when an unauthorized person changes the authentic document. This position clearly defines and organizes the issues related to counterfeiting, forging and using a document as authentic.

To illustrate and justify the position presented in the study, I will use statistical data from the Police and the Ministry of Justice (see Table 1).

The data presented in the table show that the number of legally convicted people according to crimes under Art. 270 of the Penal Code, in 2020 there were a total of 4,195 cases of conviction of persons for material forgery of a document, and in 2010 this number was 10,378, similarly in 2018, there were 5,582 cases of people convicted of falsifying documents.

<table>
<thead>
<tr>
<th>Year</th>
<th>Falsification of documents Art. 270 Penal Code</th>
<th>Offenses against the credibility of documents Art. 270–277 Penal Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>4195</td>
<td>6032</td>
</tr>
<tr>
<td>2019</td>
<td>4735</td>
<td>6897</td>
</tr>
<tr>
<td>2018</td>
<td>5582</td>
<td>7660</td>
</tr>
<tr>
<td>2015</td>
<td>5975</td>
<td>8218</td>
</tr>
<tr>
<td>2010</td>
<td>10378</td>
<td>14069</td>
</tr>
</tbody>
</table>

Source: own study based on statistical data from the Central Statistical Office\(^ {24} \)

As shown in Table 1, the number of cases of document falsification in 2020 decreased by 6,248 crimes, *i.e.* by 40.42% compared to 2010, and

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\(^{23}\) See judgment of the Supreme Court of November 27, 2000, ref. no. III KKN 233/98, Lex No. 51125

similarly the number of crimes against the reliability of documents decreased by 8,037 crimes, *i.e.* by 42.87%. We have been observing a downward trend here over the past 10 years.

The size and scale of the document falsification process is difficult to estimate. This is due, among other things, to significant discrepancies in thematically published statistical data from the collections of the Police, the Ministry of Justice and specialist forensic organizations, which show large discrepancies. The parties show their preferences and limitations, which is the main reason for complete reliable verification in this respect of the phenomenon under study. The secretive and criminal introduction of a counterfeit or forged document into legal circulation causes it to function within this space, and this period may last many years. This phenomenon may cause many threats felt on various levels, with various effects and in many forms of its criminal functioning.

According to statistical data published by the Police, the number of crimes detected and proceedings initiated is systematically decreasing. Over the five-year period under study, we note an over 55% decrease in the crime category in question (see Table 2).

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of proceedings initiated</th>
<th>Number of crimes confirmed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>9350</td>
<td>17546</td>
</tr>
<tr>
<td>2019</td>
<td>11910</td>
<td>19880</td>
</tr>
<tr>
<td>2018</td>
<td>12667</td>
<td>22474</td>
</tr>
<tr>
<td>2017</td>
<td>13667</td>
<td>23690</td>
</tr>
<tr>
<td>2016</td>
<td>15129</td>
<td>28324</td>
</tr>
<tr>
<td>2015</td>
<td>16707</td>
<td>26988</td>
</tr>
</tbody>
</table>

*Source: own study based on police statistical data*\(^{25}\)

Analyzing the number of proceedings initiated and crimes confirmed according to the data in Table 2, the number of proceedings initiated in 2020 decreased by 7,357 proceedings, *i.e.* by 55.96% compared to 2015, similarly, the number of crimes confirmed decreased by 9,442 cases of crimes confirmed, *i.e.* by 65.01% over the specified period of 5 years.

The demonstrated downward trend in this category of crime is probably the result of continuous and technically and technologically innovative activities of all organizations responsible for production, distribution, verification, legal protection and the proper implementation process related to information and educational activities in the field of document protection.

In the study, I share the view of Stanislaw Pikulski\(^{26}\), from which it rightly follows that document forgery in criminal law occurs in every area of human life in which a forged document, after deliberate use, may bring a specific benefit, especially a material one. Then we are dealing with a crime classified in the category of crimes against the credibility of a document specified in Chapter XXXIV of the Penal Code, which directly concerns the crime of material forgery of a document.

The crime of material document forgery, like many areas of our social life, has a double dimension and image, which is why it is difficult to define and systematize it according to accepted categories. Despite the division and divergence of opinions among experts on the problem, it should be assumed that the process of falsifying documents is the starting point for further criminal categories.

Today, the document has become a kind of center of life for each of us, and changing its true content or losing it contrary to our will can be very painful.

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http://dx.doi.org/ 10.5604/01.3001.0053.9745

**Keywords:** document, document credibility, material forgery, document forgery, document forging, use as authentic, blank, will of the signed person, guilt and intention, preparation for document forgery, common crime, penal code, principles of criminal liability

**Summary:** The article is an attempt to confirm the recent changes in chapter XXXIV of the current Penal Code, with particular emphasis on crimes against the credibility of documents. This applies mainly to changes resulting from the consolidated text of April 28, 2022, *i.e.* Journal Laws of 2022, item 1138 and changes: Journal Laws of 2022, item 1726, item 1855; Sejm printout 1911 and 2024. Where the main goal is to explain and provide a basic comment specifying the changes made by the legislator for the proper understanding of the issue of material falsification, as defined in Art. 270 k.k.

Analyzing the scope of legal regulations defining the crime of material forgery of a document in the content of art. 270 k.k., it is necessary to discuss the subject of protection and the subject page, taking into account the notion of a document, the subject of a common crime and the subject page § 1, § 2 and § 3 of Art. 270 of the Penal Code. A pragmatic commentary and in-depth descriptions of basic concepts like; forgery of a document, alteration of a document, use as an authentic one, or the criteria of a minor case indicate the correct interpretation of the discussed issue of material falsification. The argumentation presented in the article refers to the views of the doctrine and jurisprudence in the discussed thematic scope. In order to properly illustrate the threats and the scale of the commented category of crime on the documents, two tables present an analysis of the size and scale of crimes identified under Art. 270 k.k., using statistical data of the Ministry of Justice and the Police. The literature listed in the study includes cited items and publications relevant to the commented article.

The issues presented in the study cover the legal status as of November 30, 2022.

**Palabras clave:** documento, credibilidad de un documento, falsificación material, falsificación de un documento, alteración de un documento, uso como auténtico, formulario, voluntad del firmante, culpabilidad e intención, preparación para la falsificación de un documento, delito común, código penal, principios de responsabilidad penal.

**Resumen:** Este artículo tiene por objeto confirmar los recientes cambios introducidos en el capítulo XXXIV del actual Código Penal polaco, con especial atención a los delitos contra la fiabilidad de los documentos. Esto se refiere principalmente a los cambios resultantes del texto consolidado del 28 de abril de 2022, es decir Diario Oficial Polaco del 2022, pos. 1138 en su versión modificada: Donde el objetivo primordial es aclarar y dar un comentario básico que define los cambios introducidos por el legislador.
para una correcta comprensión de la cuestión de la falsedad material definida en el artículo 270 del Código Penal polaco. A la hora de analizar el alcance de las normas legales que tipifican el delito sustantivo de falsedad documental conforme al contenido del artículo 270 del Código Penal polaco, resulta imprescindible discutir el objeto de protección y la parte objetiva del delito teniendo en cuenta el concepto de documento, el objeto del delito común y la parte subjetiva de los apartados 1, 2 y 3 del artículo 270 del Código Penal polaco. Un comentario pragmático y descripciones detalladas de conceptos básicos como la falsificación de documentos, la alteración de documentos, el uso como auténtico o los criterios de un caso de menor relevancia indican la correcta interpretación del problema de la falsificación material. La argumentación expuesta en el artículo hace referencia a las opiniones en materia de doctrina y jurisprudencia en el ámbito objeto de debate. Para ilustrar adecuadamente las amenazas y la magnitud de la categoría delictiva comentada, los dos cuadros muestran un análisis de la magnitud y la escala de los delitos clasificados con arreglo al artículo 270 del Código Penal polaco, basándose en datos estadísticos del Ministerio de Justicia y de la Policía. La bibliografía recogida en el estudio incluye los artículos citados y las publicaciones pertinentes para el artículo objeto de comentario. Los problemas planteados en el estudio abarcan la situación jurídica a fecha de 30 de noviembre de 2022.