

## **Participation of an expert psychologist in the interrogation of a witness in the light of Polish criminal law**

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### **Summary**

In the Polish penalty procedure, the witness is an important source of evidence. The court assesses his credibility in the light of the free assessment of evidence directives' principles (Article 7 of the Code of Criminal Procedure – CCP). In a situation where there is doubt about the mental state of the witness, his mental development condition, his ability to perceive or recreate perceptions, the court or the prosecutor, according to the content of Article 192 § 2 of the CCP, may order an interrogation of a witness with the participation of, among others, expert psychologist. This may take place, for example, in case of a witness with mental disorders or a witness in old age.

Opinions drawn up by an expert psychologists are also very helpful in the process of assessing the credibility of the witness's testimony, especially in interrogation of a witness under the age of 15 (Article 185a and c of the CCP). The psychologist may also take part in interrogation a witness in cases related to offenses specified in Article 197–199 of the CC (Article 185c § 3 of the CCP). The presence of an expert psychologist in the courtroom or in a place specifically designated by the procedural authorities, is conditioned by the disclosure of circumstances justifying the suspicion of the existence of factors that disrupt or exclude the ability to perceive, remember and reproduce observations and reporting facts. These circumstances are not always the real doubts concerning the mental state of the witness, and the role of an expert psychologist in these tasks is often not fully used.

**Key words:** expert psychologist, witness, interrogation

### **Introduction**

Forensic psychology is a subdiscipline of applied psychology and deals with collection, examination and presentation of evidence for judicial purposes. The subject of interest of a forensic psychologist, referred to as a forensic expert in the field of psychology, is a person participating in the preparatory stage or court proceedings as:

(a) a suspected or accused person of a prohibited act; (b) a victim of a crime who is also a witness of the prohibited act; (c) a witness of a prohibited act.

Psychological knowledge from the early nineteenth century was used by German lawyers in criminal cases, seeking for relationship between the value of testimonies and individual characteristics of the interrogated persons. Psychologists first appeared in the courtrooms at the end of the 19<sup>th</sup> century, presenting studies on the dependence of the credibility of testimonies on the mental features of witnesses [1, 2].

The relationship between the value of the evidence obtained as a result of the interrogation and the way in which the procedural act was carried out was clearly noticed in the twentieth century, which brought a broader perspective on the issue of testimonies. Humanization of law and dynamic development of psychology have consolidated the importance of this discipline of science in solving legal problems. Until now, it has influenced the shaping of legal regulations and the state of psychological knowledge of experts [1, 2]. The possibility of interrogation of a witness with the participation of a psychologist is also provided, among others, by German penal procedure [3, 4]. It is also worth mentioning that there is a Child Advocacy Center, which is related to the testimony of children in the USA, and which was created to help children who are victims of sexual and physical abuse. The purpose of the center established in the USA is to create and develop a system for detecting abuse against children and to ensure that they are interrogated in friendly conditions and by persons who have the necessary preparation for it. Psychologists play a significant role during such interrogations [5].

The subject of psychological opinion in criminal matters may be, among others, the analysis of witnesses' testimonies in terms of their evidential value [2, 6]. The role of the psychologist in criminal proceedings in connection with participation in the interrogation is reduced to:

- (1) interrogation of a witness with the participation of a psychologist, regardless of the age of the witness and the alleged act (Article 192 § 2);
- (2) interrogation of the aggrieved party under 15 years of age (Article 185a of the CCP);
- (3) interrogation of a witness under the age of 15 (Article 185b of the CCP)
- (4) interrogation of the victim as a witness, in cases concerning following crimes:
  - a) rape and extortion of sexual activity;
  - b) sexual exploitation of insanity or helplessness;
  - c) sexual exploitation of dependence (Article 185c of the CCP) [7].

The aim of the paper is to acknowledge the need to be aware of each other's competencies and expectations by the procedural bodies and an expert psychologist, and to learn about the possibilities and limitations of expert opinions issued in criminal cases in relation to the psychological assessment of a witness.

### **Premises for interrogation of a witness with the participation of an expert psychologist pursuant to Article 192 § 2 of the CCP**

Interrogation of a witness in the presence of a medical expert or an expert psychologist pursuant to Article 192 § 2 of the CCP does not depend on the age of the witness. However, to allow the authorized body (at the stage of preparatory proceedings – the prosecutor, and at the stage of court proceedings – the court) ordering interrogation of a witness with the participation of a medical expert or expert psychologist, the following conditions must be met:

- (1) the person being questioned has the status of a witness;
- (2) there are doubts about the mental state, state of mental development, the ability to perceive or reproduce observations of the witness [7].

Interrogation in the presence of a medical expert or an expert psychologist is conditioned by the occurrence of one of the three doubts mentioned above [8].

It is significant that the witness cannot refuse the interrogation with the participation of a medical expert or an expert psychologist. However, he/she may not consent to being subjected to a psychological examination (Article 192 § 4 of the CCP). The witness is not interrogated in the presence of a medical expert or an expert psychologist if the person refused to testify or was released from testimony pursuant to Article 182 § 1 and 2 of the CCP or Article 185 of the CCP (Article 192 § 3 of the CCP) [7].

It is worth remembering that a witness can be subjected to a psychological examination only with his/her consent (Article 192 § 2 of the CCP). In other words, the lack of consent of a witness to subject him/her to a psychological examination will cause that the role of an expert psychologist will be limited only to participation in the interrogation of the witness and on the basis of observations from the interrogation and based on the evidence gathered in a given case, the expert will issue a psychological opinion. When the evidence from interrogation of a witness with the participation of an expert psychologist is admitted by both the prosecutor and the court, very often there is an error resulting from the fact that the expert only takes part in the interrogation of the witness and on this basis, taking into account the evidence collected in the case, issues an opinion, while undoubtedly issuing an opinion, of course, when the witness does not refuse it, should be preceded by psychological examination of the witness.

The scope of work of an expert psychologist is always determined by the court or the prosecutor, formulating the thesis that the expert is obliged to answer in his/her expert opinion. The task of an expert psychologist is then to prepare an opinion with justification and final conclusions which answers the questions put forward by the principals [6, 7].

In criminal cases, the subject of a psychological opinion is usually the analysis of witnesses' testimonies in terms of their evidential value. This is regulated by the aforementioned provision – Article 192 § 2 of the CCP. This provision, however, does not contain and cannot contain a catalog of symptoms and conditions interfering with the witness's ability to testify, the existence of which could result in obligatory expert

participation, which is why in practice there is an expert called also in cases where there is no such need [9].

The very fact of the witness's psychiatric treatment cannot automatically determine the unreliability of his/her testimony, especially in a situation where during the pre-trial psychiatric-psychological examinations there were no symptoms of those disorders that were the cause of hospital treatment, and especially when the expert's opinion does not provide grounds to question the witness's testimony.

The finding of presence of certain mental disorders or addiction does not automatically lead to discrediting the evidential value of the testimony of such a witness. Evidence provided by such witness's testimony is subjected to the same evaluation rules as any evidence in the case, and the value it acquires or loses depends on its logical relation to other evidence [9].

Defining doubts about the mental state of the witness as real and resulting from specific facts may be associated with certain problems. Very often the experts are appointed by the proceeding body in cases when the elderly are to be examined as witnesses. The efficiency of cognitive functions decreases gradually with age, yet it does not mean that in all elderly people they are at a level that excludes the ability to reproduce observations and report facts. If these persons are not in a state disrupting or disabling facts reconstruction, it is not necessary to interrogate them in the presence of an expert [9, 10].

The same applies if a psychologist is required to participate in an interrogation of a witness under the age of 18 (we omit here the obligation to interrogate in the presence of psychologist the victim and the witness who, at the time of the interrogation, were under 15 years of age, resulting from Article 185a and b of the CCP, and also interrogation of a victim as a witness pursuant to Article 185c of the CCP) [7].

Article 192 § 2 of the CCP does not equate doubts about the possibility of perceiving and reproducing observations with the witness's age. Of course, it cannot be ruled out that such a need will arise for various reasons. However, if we have information that a witness at the age of 16 who attends regular school – not school for people with intellectual disabilities – has not suffered head injuries with loss of consciousness, has no serious health problems of a somatic or psychological nature, he can submit valuable testimony and the participation of an expert psychologist in such interrogation is unnecessary. Sometimes, however, the procedural authorities appoint an expert in such matters “just in case”. The position of the Supreme Court [11] leaves no doubt in this regard: “appointment of an expert cannot be a rule in interrogation of minors, especially if the testimonies of these people do not raise doubts in the light of the established circumstances of the case” [9, p. 21].

In many cases, it is necessary to interview as witnesses people who abuse or are addicted to psychoactive substances. Because some of these people are dependent on intoxicating substances, prosecutors decide to interrogate these persons with the participation of an expert psychologist at the stage of preparatory proceedings. From a psychological point of view, addiction is not a sufficient basis to recognize that there are doubts about the mental state of the witness and the ability to perceive and reproduce observations. Each case should be assessed individually, obtaining information

on the degree of addiction, state at the time of testifying, with additional opinion of a psychiatrist acting as an expert who will assess the possibility of making testimony on a given day. It is assumed that only withdrawal syndrome or other psychopathological symptoms resulting from the use of psychoactive substances may be a reason to interrogate such a witness with the participation of an expert [9, 12].

Frequently, experts are appointed in situations when the victims present a strong emotional attitude to the case, to the perpetrator, especially in situations where family conflicts occur. The emotional way of testifying by a witness, involving, for example, the nature of a family conflict, which resulted in criminal proceedings, does not always justify doubts about the mental state of the witness or other, contained in Article 192 § 2 of the CCP, factual premises that would give the court the opportunity to order a witness to be interrogated with the participation of a medical expert or an expert psychologist.

Another circumstance that raises doubts as to the legitimacy of appointing an expert psychologist is the need of participating in the interrogation of a witness due to the fact that he/she gave contradictory testimonies. The reasons for this behavior may be various and if their source is not disruption in mental processes, there is no basis for appointing a psychologist. It happens that procedural bodies, especially courts, appoint experts in cases that have been going on for several years – witnesses after a long period of time make different testimonies and, therefore, the assessment of the evidence is difficult. In addition, the level of perceived stress by the witness affects the content of the testimony as a result of reproduction of the memory trace under the influence of fear [9].

The literature claims that in order to limit the number of interrogations of witnesses in the presence of a psychologist only to the necessary situations, it would be reasonable for the proceeding body to consult the need to interrogate a witness in the presence of an expert psychologist [13]. In addition, if the court decides to hear the witness in the presence of a psychologist, the Polish penal procedure requires the presence of an expert during the whole of his/her interrogation, not just its fragment. An expert psychologist who participates in the interrogation of a witness not only observes the course of the interrogation but has the right to ask questions regarding issues relevant to the performance of the expert's task [6].

### **Premises for interrogation of a victim under the age of 15 with the participation of a psychologist (Article 185a of the CCP)**

The Code of Criminal Procedure [7] among the procedural conditions for the interrogation of a victim with the participation of a psychologist, mentions the following circumstances:

- (1) the aggrieved party did not reach 15 years of age at the time of the interrogation;
- (2) the crime was committed with the use of violence or unlawful threat or defined in chapters XXIII (crimes against freedom), XXV (crimes against sexual freedom and decency) and XXVI (crimes against the family) of the Criminal Code;
- (3) the testimony of the victim of one of the above-mentioned offenses may be of significant importance for the resolution of the case (e.g., the victim's testimony

will lead to the identification of the perpetrator of the prohibited act and the circumstances of its perpetration).

In matters related to offenses mentioned above, a juvenile victim who, at the time of the interrogation, is 15 years of age is interrogated in the same manner as the victim who, at the time of the interrogation, did not yet turn 15, when there is a reasonable risk that the interrogation in other conditions could have a negative effect on the witness's mental state (article 185a § 4 of the CCP). Undoubtedly, the opinion of an expert psychologist is decisive in this situation. It is worth emphasizing that the risk mentioned above must be justified, and therefore real, not just hypothetical.

Interrogation, regardless of the stage of the proceedings, is always carried out by the court. This evidentiary act at the pre-trial stage is conducted at the sitting of the court competent to proceed the case in the first instance, composed of one judge (Article 329 of the CCP). Such interrogation is carried out in the presence of an expert psychologist, which means that the absence of a psychologist during the interrogation stops the court from proceeding. During the interrogation the following persons may be present: prosecutor, defense attorney and counsel for the aggrieved party, as well as the person mentioned in Article 51 § 2 of the CCP (the closest person or the one on whom the aggrieved person is financially dependent), or an adult indicated by the aggrieved person (Article 185a § 2 of the CCP). The absence of these persons during the interrogation shall not, however, prevent the court from interrogating the witness, provided that they have been duly notified of the time and the place where he/she is to be interrogated [6, 7].

The rule is a one-time witness interrogation by a court. The CCP includes two exceptions from this principle:

- (1) significant circumstances will emerge, the clarification of which requires a re-interrogation;
- (2) re-interrogation is requested by the accused who did not have a defense attorney during the first interrogation.

To limit the number of interrogations, the legislator introduced, in Article 185a § 2 of the CCP, the obligation to appoint a public defender for a suspect (an accused) who does not have a defense attorney of his/her choice, and it is necessary to investigate the witness pursuant to Article 185a of the CCP. It should be noted, however, that a public defender can be established for a suspect, and therefore when the case is at an early stage, for example, a notification of a crime was reported and it will be necessary to hear a witness pursuant to Article 185a of the CCP before any charge of committing a crime can be made, and a necessity to hear the witness again may occur. In this state of affairs, it is necessary to postulate that the witness be interrogated in a trial pursuant to Article 185a of the CCP when the suspect is already present in the case, and who, if there is no defense attorney of his/her choice, can be appointed a public defender [7, 14].

In the judiciary, it is underlined that the suspect (accused), who did not have a defense attorney during the first interrogation of a child pursuant to Article 185a of the CCP, may legitimately demand such an interrogation to be repeated, but only on condition that the re-interrogation is not only possible due to the current mental condition of the minor, but also that the interrogation will not have a real negative impact on

his/her current mental condition [15]. The position expressed by the Supreme Court met with a critical look in the literature because the expressed view is in conflict with the grammatical interpretation of the provision of Article 185a of the CCP [16]. In our opinion, bearing in mind the best interests, which are above all the best interests of the child, the Supreme Court's view deserves approval.

Interrogation carried out pursuant to Article 185a–c of the CCP is recorded by means of an image and sound recording device (Article 147 § 2a of the CCP) [6, 14].

### **Premises for interrogation of a witness under the age of 15 (Article 185b of the CCP)**

Interrogation of a witness under the age of 15 by a court with the participation of a psychologist takes place when the following conditions are cumulatively fulfilled:

- (1) the witness at the time of the interview has not turned 15;
- (2) criminal proceedings pertain to an offense committed with the use of violence or unlawful threat or defined in chapters XXV (crimes against sexual freedom and decency) and XXVI (crimes against family) of the Criminal Code;
- (3) the witness's testimony may be of significant importance for resolving the case [7].

In matters related to the offenses mentioned above, a minor witness who at the time of the interrogation is 15 years old, is interviewed using technical devices that allow carrying out this action remotely with direct transmission of image and sound, if there is a justified risk (and therefore real, not hypothetical) that the direct presence of the suspect (accused) during the interrogation could have an embarrassing effect on the testimony of the witness or have a negative impact on his/her mental state (Article 185b § 2 of the CCP). The interrogation referred to above takes place according to the same rules as the interrogation of the victim under the age of 15. The interrogation procedures in question do not apply to a witness who cooperates in committing a prohibited act or a witness whose act is related to the act being pending (Article 185b § 3 of the CCP) [7].

The overriding purpose of applying the legal regulation contained in Article 185a and b of the CCP is – apart from the assessment of a witness and his/her testimony – limiting to an indispensable minimum the adverse impact of activities related to the participation of a minor in criminal proceedings and assisting the court in establishing a trustworthy relationship with a minor, as well as help in formulating the questions and explanations in a way that is understandable to him/her [6, 17].

### **Interrogation of the victim as a witness with the participation of an expert psychologist (Article 185c of the CCP)**

In cases of the following crimes: a) rape and extortion of sexual activity; b) sexual exploitation of insanity or helplessness; c) sexual exploitation of dependence, the interrogation of a victim who is of legal age may be carried out with the participation of an expert psychologist. At the request of the victim, however, it should be ensured

that an expert psychologist is of the same sex as the victim of crime (Article 185c § 4 of the CCP).

At the stage of preparatory proceedings, the court competent to hear the case in the first instance interrogates the persons referred to in Article 185a–c of the CCP at the request of the prosecutor who supervises or conducts preparatory proceedings, and also it should be considered permissible to carry out such evidence at the request of the suspect and his/her defense attorney and the aggrieved party and his/her representative, as, according to Article 315 § 1 of the CCP, the suspect and his/her defense attorney as well as the aggrieved party and his/her representative may submit motions for an investigation (see Article 325a § 2 of the CCP concerning investigation) [6, 7].

### **Expectations of the proceeding body from an expert psychologist**

The task of an expert psychologist in the presence of whom the interrogation takes place, is, first of all, to answer the following questions:

- (1) Is the ability of the witness to perceive the course of the event disturbed?
- (2) Is the process of reconstructing observations disturbed in the witness? And if so, how it may affect the witness's reality perception while making testimonies?
- (3) Does the witness have a tendency to confabulate?
- (4) Does the witness, while giving evidence, remain under the influence of third parties? And which parties could possibly have influenced the witness [2, 6].

It is very important that the psychological opinion is complete, clear and internally consistent. An opinion prepared by an expert, including an expert psychologist, is considered incomplete if it does not contain an answer to all questions that have been asked to an expert by the authorized proceeding body. In order for the prepared opinion to be considered complete, it must indicate the tests and research methods used by the expert. Only the opinion prepared in such a way enables its reliable assessment by an authorized proceeding body. Limiting the expert's opinion only to the formulation of final conclusions which answer the asked questions causes that the proceeding body is deprived of the real possibility of assessing such opinion, as it does not present the expert's reasoning that led to formulate final conclusions. In the jurisprudence of the Supreme Court, it is assumed that omission of evidence relevant to the preparation of the opinion makes it incomplete, i.e., it does not take into account all circumstances relevant for resolving a particular issue [18].

In judicial decisions, it is assumed that an opinion is unclear when its wording does not allow to understand the opinions expressed in it and the way leading to the opinions, or when it contains internal contradictions and uses illogical arguments [19]. An internal contradiction of an opinion, in turn, occurs when there is a contradiction between the final conclusions of the opinion and its content, that is when the content of the opinion using logical thinking principles could in no way lead to its final conclusions [6].

Referring to the expectations concerning the preparation of an opinion by an expert psychologist, it is assumed that pursuant to Article 200 § 2 of the CCP [7] it should contain:

- (1) name, surname, academic degree and title, specialty and professional position of the expert;
- (2) first and last names as well as other details of other persons who participated in preparing the opinion, indicating the activities carried out by each of them;
- (3) in the case of institutions' opinions – also the full name and seat of the institution;
- (4) time of tests and the date of issuing the opinion;
- (5) a report on the performed activities and observations as well as conclusions based on them;
- (6) signatures of all experts who participated in issuing the opinion.

The jurisprudence rightly claims that the proceeding body cannot impose a particular test method on the expert because the decision on the selection of research methods is up to the expert and they decide which methods will be used to answer the question posed in the decision of the proceeding body [20]. In the opinion, it is not enough for the experts to present final conclusion, they should also indicate the path that led to answer the asked questions. Therefore, they should present a description of the research methods and performed tests as well as their results [21]. Non-disclosure of the applied research methods remains in contradiction with the essence of evidence from expert opinion, in which the expert refers to his/her special knowledge and information, indicates the stages of reasoning (examination, established facts), presents the premises which he/she followed when issuing an opinion (scientific concepts adopted for the interpretation of established facts). Lack of knowledge about the research methods used by the expert does not allow for full verification of the results of his/her work [22].

In practice, the most common drawbacks of a psychological opinion concern the following issues:

- (1) lack of use of the whole body of evidence gathered in a case, which has a significant impact on the content of the opinion issued by the expert;
- (2) using in the text of the opinion terminology incomprehensible to the parties of the ongoing proceedings, which may make the opinion unclear (it seems that in such a situation it would be justified to explain the meaning of the terminology incomprehensible to non-psychologists in the text of the opinion);
- (3) failure to indicate in the opinion the research methods used by the expert, the application of which led to the formulation of final conclusions (the opinion must relate in a logical manner to the content of the final conclusions);
- (4) lack of explanation in the opinion why other possible research methods have not been applied (for example: the latest research method has not been used, as it is not yet sufficiently empirically tested in terms of its credibility);
- (5) necessary documentation (e.g., medical or psychological) for issuing an opinion is collected independently by an expert psychologist, while it should be provided at the request of an expert by the proceeding body;
- (6) the prepared opinion contains an assessment of correctness of another opinion which is already included in the files, while the assessment of the credibility of the opinion is the task of the proceeding body [6].

### **Psychological assessment of testimonies resulting from the role of an expert psychologist**

Interrogation of a child and a person whose mental condition, mental development status, the ability to perceive or reproduce observations, are doubtful, is, next to the confrontation, to one of the most difficult procedural activities. It requires the person conducting the activity to carefully prepare for it, thoroughly learn the object of the proceedings in progress, to formulate questions as precisely as possible. It is also important to know the level of child's development, or the mental health condition of the witness, in order to formulate questions adequately to the degree of development or health condition. Polish criminal procedure does not provide an age limit for a witness and a witness can be anyone who has the ability to communicate and be in contact that makes it possible to ask questions and provide answers that are reports from the course of the incident. In this situation, expert psychologists play a very important role in the process of interrogating a child as well as a person in the case of which there are doubts about his/her mental state, state of mental development, or the ability to perceive or reproduce observations. They not only should be present during the interrogation (assisting in the process of interrogation) but also have an active role in the process of interrogation [17].

During interrogation, the psychologist plays the role of a consultant, being at the same time an assistant and acting as a professional support for the proceeding body conducting the interrogation. As mentioned before, an expert psychologist should actively participate in the interrogation and may ask questions, however, he cannot replace the proceeding body in conducting the interrogation itself. The expert psychologist not only has the right but also the obligation to get acquainted with the evidence collected in the case before the interrogation. Undoubtedly, the psychologist can be very useful in the initial phase of the interrogation when it comes to establishing contact between the interrogator and the interrogated. The psychologist can indicate the right tactics of the interrogation, give important instructions on how to formulate questions. The role of the psychologist is also to create an atmosphere conducive to giving testimony by a child or persons referred to in Article 192 § 2 of the CCP. Undoubtedly, it shall also be very useful when explaining to the witness incomprehensible issues [17].

In the literature, it is rightly indicated that during the interrogation of a witness pursuant to Article 192 § 2 of the CCP, the role of the expert who takes part in this interrogation is also watching over the health condition of the interrogated person and in the event of such necessity, the expert should request interruption of the interrogation [17].

The key problem in the psychology of witnesses' testimony is determining the credibility of testimonies not only on the basis of the analysis of witness's answers obtained by means of a specific question technique. The psychological assessment of a witness requires also the analysis of cognitive, subjective and personality determinants of the credibility of the witness's testimony. The psychological assessment of the credibility of witnesses' testimony is made on the basis of an analysis of their personality and motivations resulting from specific situations and arrangements in which a witness was in relation to the perpetrator of an offense during the criminal act [17].

In the psychological analysis of the witnesses' testimony, evidence theses are not limited to describing the intellectual capabilities of the person being examined, diagnosing his/her ability to perceive, remember and reproduce observations, determining the tendency to lie as well as social and emotional functioning. They also include issues related to the consequences of a trauma suffered as a result of the event, and the possibility of participation in subsequent procedural activities and conditions under which they might proceed [1].

The circumstance of psychological assessment of submitted testimony should always be considered individually, and the behavior of a person in a situation where testimony is given can be understood as participation in a social situation [2]. It should be emphasized that the task of a psychologist appointed on the basis of Article 192 § 2 is the presentation, after carrying out the relevant research, of opinions on the personality of the witness, and, in particular, on his/her mental development, ability to perceive or reproduce observations, while the assessment of the credibility of testimony of such a witness belongs solely to the court conducting the case. This assessment is a result of the judge's thought process and requires a decision. Assessment is an integral part of social cognition, i.e., the way people think about themselves and the social world. In this context, an expert psychologist becomes a person who, having specialist knowledge in this area, can point to the pitfalls of assessing and decision-making, and refer to the criteria of reliable testimony indicators. The psychologist 'helps' the judge by assessing whether the mental state of the witness can affect the credibility of his/her testimony [17, 23]. That is why a psychological examination of a witness is so necessary, since the participation of a psychologist in his/her interrogation is insufficient to meet the expectations of the proceeding body [6, 10].

In the subject literature, there are many theories defining the criteria for assessing the credibility of testimonies. They derive from forensic psychology, which specializes, inter alia, in interrogation techniques and the method of interpreting testimonies [24]. However, the knowledge of these theories and the signs referring to them that indicate credible testimonies should not be mythologized and thus overestimated. This knowledge should still be treated with caution and distance, without denying its minor but useful role in criminal proceedings [23]. From the psychological point of view, it is not possible to close all factors taken into account in the assessment of witnesses' testimonies, which results from the complexity of cognitive and personality functions of a human being. Psychological indicators of a lie and lying are not universal indicators [23, 24].

### **Recapitulation**

The provisions of the Code of Criminal Procedure do not regulate in detail the issues related to the participation of an expert psychologist in the interrogation of a witness. In order to decrease the possibility of occurrence of doubts, it is necessary for the judges and prosecutors to know the specificity of the work of an expert psychologist, the scope of the expert's competence, and the methods of verifying the issued opinions. It is necessary to require from expert psychologists thorough knowledge of legal issues

necessary for providing opinions in criminal matters. Only then the evidence from the interrogation of a witness and the forensic-psychological opinion issued on this basis will provide a valuable evidence in the criminal trial.

**Declaration:** *Agata Orzechowska and Krzysztof Eichstaedt declare equal participation in the creation of work*

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