



## PECULIARITIES OF CRIMINAL INVESTIGATIONS IN CASES OF FORGERY AND USE OF FORGERY

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### **Abstract**

*One specific feature of the forgery offences under provisions of Title VII, Special Section of the Romanian Criminal Code, and what draws a difference between these offences and other doings that distort the truth, is the fact that deceiving of the public trust is done through a product of criminal activity (coins, stamps, credit instruments, seals, marking tools, written documents, etc.). These things that constitute in themselves proof of truth, enjoy, objectively, general trust, regardless the person who undertook this activity.*

*Legal authorities activity in prevention and control of criminality needs urgent and complete revealing of the offences, identification of the offenders, ascertainment without any doubt of the guilt and, in relation to this, carrying out of sentences under the criminal law. For this purpose, prosecutors and courts have the right and, in the meantime, the obligation to employ all legal means in order to establish the truth, as they should do in civil cases as well.*

*One of the sciences that emerged from the pursuit of preventing and fighting criminality is criminology. Emergence of this independent science, owns to intensification of crime and impossibility of containing unlawful actions simply by applying the law.*

**Key words and expressions:** *forgery, forgery of legal writings, objective aspect, subjective aspect, criminal investigation*

### **Historical and comparative law notions related to forgery of valuables**

Forgery offences can be found in any legislation, with nuances determined by the social and economical evolution of states, and also different punishment rules imposed by each country's penal polic

Monetary counterfeit, and also forgery of legal documents, especially when this was issued by the chief of state, were punished very severely.

The criminal laws of Romanian Principalities included interesting provisions related to incrimination of forgery offences. Thus, Caragea's Law (*Pravila lui Caragea*) in effect in 1817, in Greater Walachia, stipulated "death penalty" for money

counterfeiters and "hand chopping" in case of forging "the princely seal or signature", or "condemned to imprisonment and work in a salt mine" for forging the princely deeds. In Moldavia, Sandu Sturza's Criminal Ledger of 1826, for the same doings, stipulated in undifferentiated manner, only imprisonment sentences<sup>1</sup>.

Later, in 1864, "Cuza's Criminal Code", while keeping substantial traditional features of Romanian legislations, but also being influenced by modern legislations of that period, first and foremost, by the Napoleonic Code, grouped the forgery offences in the

<sup>1</sup> Gheorghe Nistoreanu, Ioan Molnar, Alexandru Boroii, Vasile Dobrinioiu, Ilie Pascu, Valerică Lazăr, Drept Penal – partea specială, Ed. Continent XXI, București, 1995, p. 441.

section related to “Crimes and Offences against Public Interests” The most significant incriminations were: “coin forgery” (art. 122), forgery of banknotes or other valuables (art. 117 paragraph 2), forgery of postage stamps, marks or transportation tickets (art. 118, 120, a and b, art. 129), a whole section being dedicated to forgery of public or authentic documents, starting with forgery committed by a public servant (art. 123), forgery committed by an individual (art. 125), forgery of passports (art. 129), forgery of certificates (art. 135), forgery of attestation papers (art. 139), as well as the infringement of serving public documents (art. 127) or the abuse of signatures in blank (art. 128).

The Criminal Code "Carol II", in effect from January 1<sup>st</sup> 1937, kept the same conception and systematization regarding the forgery offence. These offences were stipulated in art. 385 and following, up to art. 406, under Title IX of the Special section, entitled “Crimes and Offences against Public Interests”; some of the incriminations were formulated similarly to those from the previous code, others represented new regulations, such as: art. 390 stipulated that foreign currencies were assimilated, in terms of sanctioning the counterfeit, to the national currency, art. 385, paragraph 3 and art. 399 contained provisions regarding manufacturing or possession of tools or materials with the purpose of using them for forging valuables (coins, postage stamps, marks, seals, marking signs, etc.) art. 400 stipulated also as misdemeanour the act of melting of small coinage in circulation or its usage for manufacturing any kind of object, or art. 413 which incriminated the use of false medical certificates with the purpose of misleading an authority or an insurance company.

The current Criminal Code, in its first chapter of Title VII of the special section comprises, in 4 articles (art. 282 – 285), 3

incriminations, according to the marginal naming: counterfeit of coins or other valuables (art. 282), forgery of postage stamps, marks or transportation tickets (art. 283), and possession of tools with the purpose of using them for forging valuables (art. 285). Concerning the stipulation in art. 284, named “forgery of foreign valuables”, this is not in its own a new incrimination, but it comprises only a specification related to the incidence of the incriminating rules stipulated in art. 282-285, hence the criminal regulations regarding monetary counterfeit, forgery of postage stamps or other valuables in case these money, postage stamps, etc. would be issued by other state or on foreign territory<sup>2</sup>. Stipulating this in a separate article aimed to highlight extension of incrimination and enforcement of counterfeiting any money or valuables, even thou those would not be domestic, but foreign. Through this extension of incrimination, the Romanian stat complies with the obligation undertaken by signing international conventions to repress serious doings that would affect the interests of other states and of international economic and financial relations (in this case, the Geneva Convention of April 20<sup>th</sup> 1929, co-signed by Romania). Meanwhile, it should be noted that, within these incriminations we differentiate, aside from a main incrimination, that represents the basic offence, some adjoining incriminations such as those related to putting into circulation of money, valuables or forged postage stamps, or possession with intent to put into circulation of the counterfeit money or forged valuable.

All the offences under this chapter have as a common feature the same legal matter, constituted by social relations whose natural course of events depends on the untouched

<sup>2</sup> Costică Bulai, Avram Filipaş, Constantin Mitrache, Bogdan Nicolae Bulai, Cristian Mitrache, Instituții de Drept Penal, Ed. Trei, București, 2008, p. 576

public trust in the authenticity of the legal tender, valuables, postage stamps, credit instruments of any sort, used within this relational framework. This common feature unites the actual expressions of counterfeiting money, forging postage stamps or other valuables. This explains why, as *lex ferenda*, it is suggested to put together these four incriminations, extant in the current Criminal Code, under one sole designation, under the same article.

Some regulations from foreign legislations are significant and deserve to be presented.

The French Criminal Code<sup>3</sup>, in effect since September 1st 1993, includes the offences of forgery in Chapter I of the Title IV dealing with "Actions that prejudice the public trust". From art. 441-1 to art. 444-4 there are incriminations of forgery offences, forgery of public or authentic documents, offering to another person by fraud a document issued by the public authority, counterfeit or forgery of currency or banknotes, either in circulation in France, or issued by foreign or international institutions empowered, transportation, putting into circulation or possession with intent of putting into circulation of counterfeit or forged credit instruments, counterfeit or forgery of coins of French or foreign banknotes that don't constitute legal tender or are not any longer authorized, putting into circulation any unauthorized legal tender with the purpose of replacing coins or banknotes, counterfeit or forgery of postage stamps or other postal valuables, including those issued by postal institutions from other countries, counterfeit or forgery of the state seal or of national stamps or of tools for marking objects of gold, silver and platinum, use of such tools,

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<sup>3</sup> Gheorghe Nistoreanu, Ioan Molnar, Alexandru Boroi, Vasile Dobrinouiu, Ilie Pascu, Valerică Lazăr, *Drept Penal – partea specială*, Ed. Continent XXI, București, 1995, p. 444.

as well as other regulations of lesser signification.

The German Criminal Code, in effect since May 15<sup>th</sup> 1971, with amendments until June 9th 1989, includes incriminations related to forgery in legal documents, in Chapter 23 of the Special Section, entitled "Forgery in Deeds" (paragraphs 267-281). In other chapters of the Code there are stipulations related to other forms of forgery, such as: monetary counterfeit, (par. 146), putting into circulation of counterfeit coins (par. 147), forgery of official banknotes (par. 148), actions in preparation of monetary counterfeit and forgery of banknotes (par. 149), or false certification while on duty (par. 348). Paragraph 151 stipulates that paper valuables designated by law are assimilated with coins, and paragraph 152 extends the provisions related to counterfeit coins, banknotes, valuable documents and foreign currency. The German Code has a separate article, 152 a., to forgery of printers for Euro-checks.

Consulting other European Codes one would also notice some of the most interesting stipulations regarding forgery, within the Swiss Criminal Code of December 21<sup>st</sup> 1937. Title X of this Code is dedicated to monetary counterfeit, forgery of official valuable stamps and official marks, forgery of measures and weights, incriminating in separate articles, the following actions: manufacturing of counterfeit money (art. 240), counterfeiting currency (art. 243), import, acquisition or keeping of counterfeit currency (art. 244), forgery of official valuable stamps (art. 245), forgery of official marks (art. 246), manufacturing or acquirement of tools for forgery (art. 247), as well as, forgery of measures and weights (art. 248). Art. 250 stipulates that dispositions of Title X are applicable also for foreign coins, banknotes, bank bills and postage stamps. Title XI of the Swiss

Criminal Code is dedicated to forging of official documents (art. 251 – 257).

Also, the Italian Criminal Code of 1930 contains a series of stipulations regarding monetary counterfeit, forgery of stamps or other valuables (art. 453, 454, 459, 460, 461, 464), forgery of counterfeit seals (art. 467), counterfeit of other public seals or distinct instruments authentication and the use of them (art. 468), abuse of seals and real authentication instruments (art. 471), and also forgery of legal documents (art. 476, 479, 482, 483, 484, 485, 489).

One could cite a few references from the Spanish Criminal Code in effect from September 14<sup>th</sup> 1973, with amendments until 1992. Title III of the 2<sup>nd</sup> Book stipulates starting with art. 269, the following: forgery of the chief of state's signature or stamp, forgery of ministers' signatures, forgery of the state's seal, forgery of authorities' seal. Counterfeiting currency of other valuables is punishable in accordance with art. 283, 284 and 291, and forgery in deeds are incriminated in art. 302, 303, 304, 306 and 307. Art. 308 deals with identity theft, and art. 309 with manufacturing or possession of tools and materials with the purpose of using them for forging valuables.

Another Iberian legislation, namely the Portuguese Criminal Code, in effect since September 23<sup>rd</sup> 1982, has an important number of dispositions regarding forgery, as follows: forgery of documents (art. 228), counterfeit or forgery of data and technical sheets (art. 230), false committed by a public servant while in office (art. 233), issuance of false certificates (art. 234), use of identification documents belonging to other person (art. 235), currency counterfeit (art. 236), forgery or alteration of national currency value (art. 237), depreciation of national currency value (art. 238), putting into circulation of counterfeit coins (art.

241) and forgery or counterfeit of seals, marks or stamps (art. 247).

We close this presentation mentioning few of the provisions from the United States Criminal Code (edition 1985) regarding forgery offences: false statements and use of forgery (Section 241,3); forgery in official documents (Section 241.7 and 241.8); forgery in private deeds and counterfeiting of coins, official effects, postage stamps, seals, credit cards, trade marks (Section 224.1); fraud by simulation of rarity or antiquity of an object (Section 224.5); fraudulent activities in practicing the commerce (Section 224.7) and so on.

### **Characterizing the offences of forgery and use of forgery**

*The generic and the material legal object of the forgery and use of forgery offences<sup>4</sup>*

*The generic legal object* of the forgery offence is constituted by the social relationships that occur and are developed in connection with the social value of the public trust, needed by some things empowered by law with the virtue of expressing the truth.

The public trust (*fides publica*) represents one of the most important social values and specifically characterizes the state subject to the rule of law, contributing decisively in the natural development of human relationships and normal evolution of social and economic activities, such as: financial and banking operations, domestic and international, administrative activities related to issuance of documents, certificates, writs or with regard to relations between the citizen and the public authority

<sup>4</sup> Gheorghe Nistoreanu, Ioan Molnar, Alexandru Boroii, Vasile Dobrinioiu, Ilie Pascu, Valerică Lazăr, Drept Penal – partea specială, Ed. Continent XXI, București, 1995, p. 444.

in circumstances that can produce legal consequences, etc.

In all institutions of criminal law, public trust represents a value, a legal category separated by the personal trust that people have for each-other, which has a totally different signification.

In cases of forgery offences, stipulated in Title VII, trust is granted in rem, which is to say, to the very thing that was attributed the virtue of expressing the truth, truth that has been altered through the deed committed.

The legal object characteristic to all forgery offences, thus, consists in this social value of the “public trust” that has to be granted by any person to things, signs and deeds with express evidentiary value (such as: civil status documents, authentic deeds, certified documents or documents under private signature, diplomas, recorded official statements, written evidences, etc.) or implicit evidentiary value (i.e.: coins, postage stamps, credit instruments, checks, travelling or transportations documents, etc.). In instances where the thing that underwent forgery has not the ability of serving as evidence, we do not have a case of forgery offence; the doing might eventually represent a different violation of law, such as cheating (for instance, if alteration of truth regards a coin that was withdrawn from circulation, in which case, that coin can no longer have evidentiary value).

*The material object.* In the majority of forgery cases we have a material object that can be represented either by the very material used in counterfeiting the object or the document (i.e.: regarding monetary counterfeit of forgery of securities), or by the forged objects or deeds (in cases their content has been altered) upon which the action was executed: metal or paper currency, postage stamps, marks, transportation tickets, authentication and

measurement tools, official deeds or under private signature, etc.

#### *Subjects of offences*

*The direct active subject* can usually be any responsible person that meets the general conditions of an infractions’ subject. In cases of documents forgery, the direct active subject must be a public or civil servant, according to the acceptations of art. 147 of the Criminal Code. Same status represents an aggravating circumstance in cases of forgery in official deeds, according to art. 288(2) of the Criminal Code with role in co-authoring, instigating, or abetting. For forgery offences that imply a qualified subject, this qualification is also necessary to the co-authors, as well.

*The passive subject* of these offences is the Romanian state which is imperilled by the increase of public doubt in certain matters, objects, valuables or deeds that have an evidentiary value and ensure protection and unhampered development of social relationships. In some cases there can be a secondary passive subject (legal or natural person) whose interests are injured through the offence committed

Perpetrating forgery offences is not conditioned by the existence of prerequisites regarding the place or the moment the offences are carried out. Only in case of forgery by use of the Red Cross symbol, under the provisions of art. 294 of the Criminal Code, the doing must be committed during wartime so the aggravating circumstance would correspond.

#### *The Objective Aspect*

*The material element* of the forgery offences is accomplished through altering the truth. This can be done in two main ways: *counterfeit* and *alteration*.

*Counterfeit*, implies manufacturing in its entirety, in an artificial way, of a valuable or

of something that represents the material object of the forgery offence (coins, checks, credit instruments, stamps, marks, official deeds, etc.), creating the appearance that such imitations are genuine, authentic.

*Alteration* is done by modifying the content of the object to be confiscated, by means of changing the data regarding the object.

In cases of derivate offences, the material element is accomplished through actions different from those implied by the forgery offence in itself, such as: putting into circulation, possession with the intent of putting into circulation, use of forged valuables, unlawful use of the Red Cross symbol or name, etc.

*The immediate effect* of these offences is creating a status of hazard for the valuable protected by law, which is for the public trust in some valuables, things, signs, deeds, etc. This effect shown is implied by committing the incriminated action, because the law does not generally condition, the existence of the offence on a specified result.

Some of the actions incriminated under this title can become, under certain circumstances, injury causes, when they imply a result that does not depend on the action but is induced by it.

The forgery offence, being a hazard offence, do not include a result within the regulation, thus, identifying the causality relationship does not create difficulties because the immediate effect is the implicit result of the action committed.

### *The Subjective Aspect*

*Type of fault.* All offences categorized as forgery are committed, as far as the type of fault is concerned, with direct or indirect intent. Because some offences are committed with a purpose that is clearly stipulated by law as a necessary requisite of

the subjective aspect, the type of fault, in such cases is direct intention. In such situations, the offender foresees that by counterfeiting or altering an object, deed, etc., its contents will become false, but intends to carry out the action and subsequently to produce a hazard status, this in turn, being an offence if committed with intent.

*The motivation* for forgery offences may be, in most cases, the greed, the desire to obtain easily high profits. Even thou the motivation is not needed by law, identifying and proving it are extremely important in the process of individualizing the criminal responsibility, and also in order to take precaution or security measures.

*Purpose.* Determining the purpose of these offences, as a requisite of the subjective aspect, will help even if the purpose is not expressly stipulated in the text of the law; it needs to be specified in order to have a correct individualization of the penalty.

### **The written paper as object of forgery**

The current Criminal Code uses the term of "writ" instead of "document", used previously and which is often employed to designate a legal document in the sense of "negotium" and not only in the sense of a written document - "instrumentum" piece that sets the manifestation of will<sup>5</sup>. Along with these two terms, there also is "deed" that can designate a deed and also any other object intended to certify legal or historical facts<sup>6</sup>.

The written document represents first of all, a writing, as a way of expressing thoughts, embedded on a certain media, usually paper, but sometimes, parchment, cloth, wood, glass, plastic, etc.

<sup>5</sup> V. Bercheșan, Valorificarea științifică a urmelor infracțiunii, vol. III, Editura Little Star, Buc., 2003, p. 64.

<sup>6</sup> D. Sandu, op. cit., 1994, p. 7.

Not being a written expression of thought, emblems, marks, musical notes, photographic reproductions, phonographic recordings, films, do not correspond to the notion of written documents, and so are moulds, seals, and so on. From the point of view of the criminology, the correct naming is "deed" and not "written document" In this field, the term "deed" covers a very wide area, since it doesn't refer only to written documents in the general acceptance of the term, but also to all that can be recorded scripturally. Thus, within the same notion there are printed and typed materials, manuscripts, sketches, drawings that certify civil status, education degree, closing of a transaction, postage stamps, travelling tickets, etc.<sup>7</sup>

Regarding the written text as a graphical manifestation or declaration of will, or as attestation of a fact, this renders the content of the document and can include facts, circumstances, event, and conditions, actions to which the criminal law connects certain legal consequences, and its absence means the document is inexistent.

Another important element of the document, that gives legal value and significance, is the signature or the subscription, by which one generally identifies the author. The signature needs to be hand-written and personal, because signing any other way, i.e.: by applying a seal, represents merely an identification element of presumptive nature but not a proper signature of legal value. It should be noted that the signature is not the only way of certifying paternity of documents and the law stipulates numerous valid acts without signature.

Law in general and criminal law in particular does not take into consideration any kind of document, but only the ones that

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<sup>7</sup> A. Ciopraga, I. Iacobuță, *Criminalistica*, op. cit., p. 165.

can produce legal consequences<sup>8</sup>. According to the law, the document has to have an evidentiary value, regardless whether it was pre-constituted, intended to make proof of a right, or it later became able to prove a certain legal condition.

In the legal process, written document may value not only as proofs, but also for reconstruction of circumstances of their issuance. In such situations, they are considered material evidence, keeping this status during the criminal investigation.<sup>9</sup>

The written document is considered proof as long as its authenticity is not questioned. From the moment authenticity of writing, signature, stamp imprint or of other elements of the document, are questioned, this becomes material evidence. Thus, the document will no longer have the role to certify certain legal relationships, but will serve to prove forgery and its author. As evidence, the document is characterized by consistency between what it communicates, and facts, while the document as material evidence lacks such consistency.

Another criterion of distinguishing between these two aspects is that, while the document as evidence may be presented in copy or duplicate, the document as material evidence must be presented only in original.

Meanwhile one must highlight the importance of written documents in any field of activity, because they can pinpoint the moment of occurrence, modification or termination of legal relations of any kind. For this reason it is necessary that any written document should be truthful, in accordance with the real facts and not altered in expression or content through mischievous actions.

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<sup>8</sup> Stancu Emilian – *Tratat de criminalistică*. Ediția a III-a, Editura Universul juridic, București, 2004.

<sup>9</sup> V. Bercheșan, *Cercetarea penală*, *Criminalistică - teorie și practică*, Ediția a II-a, Ed. Icar, Buc., 2002, p. 164.

Written documents have a great importance in any field of activity, because they can pinpoint the moment of occurrence, modification or termination of legal relations of any kind. These written documents certify facts and events of great importance in the activity of state or private owned companies, as well as in protecting the legal rights of the citizens<sup>10</sup>.

Examination of written documents represents a separate field of the criminology and has two branches<sup>11</sup>:

- technical examination of documents;
- graphical identification based on his/her handwriting.

The technical examination regards investigation of forged documents (counterfeit documents including banknotes, stamps, checks, other valuables).

Graphical identification aims to establish the identity of the person whose handwriting appears in the document.

The criminal examination aims to elucidate the circumstances and causes that make use of the written documents. Resorting to criminal investigation of documents can be explained as follows:

- the written documents record a series of economic and social activities;
- admission of written documents as evidence during investigation or in a court of law;
- the written documents may themselves constitute the material object of the forgery offence.

In criminology *examination of written documents* refers to:<sup>12</sup>

- documents related to records and circulation of goods;
- documents related to development of production process;
- checks; lottery tickets; transportation forms, education records, identification papers, medical certificates, credit cards, cards, travel checks, etc.

By document, criminology understands both, the written document as evidence, and also as material object of the forgery offence.

The same applies to typed texts, banknotes, postage stamps, credit cards and authentication instruments (seals, stamps).

Document examination dates back in ancient times, representing probably one of the oldest methods of technical evidence presentation used in judicial procedures, proving that the first forgeries appeared along with intensification of written documents circulation.

Following the progress of exact sciences, especially physics and chemistry, the area of investigation in order to trace down forgeries became wider. Thus, applying procedures elaborated in other fields had great effects in the technical examination of documents.

Regarding the significance of the written documents' technical examination, it is necessary essential that, apart from graphically examining the documents and investigating forgery of banknotes, coins, stamps and other valuables, the technical examination is meant to highlight the role of

<sup>10</sup> C-tin Drăghici - Tehnica criminalistică, Editura ERA, București, 2003, p. 425.

<sup>11</sup> Lucian Ionescu –Expertiza criminalistică a scrisului, Editura Junimea, Iași, 1973, pag.7 si Dumitru Sandu Falsul in acte, Editura Dacia Cluj-Napoca, 1977, p. 6.

<sup>12</sup> Sandu Dan, Falsul în acte., Editura Lumina Lex, București, 1994.

criminology not only in solving criminal causes, but also civil ones.<sup>13</sup>

The judicial bodies have too a range of tasks in examining written documents. The prosecutors are the first to acknowledge the existence of documents that might have inadequate data. The court rarely comes across such situations, may it be in civil cases, or criminal ones.

Whenever in the course of judicial proceedings in a civil lawsuit there is doubt that data contained in a written document does not reflect reality, the court is to suspend the proceedings and to send the document to the prosecution for investigation.

Until receiving a disposition to start technical and scientific examinations or a criminal investigation, the prosecutors have to take measures for confiscating and preserving the documents, run the first investigations in order to clarify the nature of the forgery, and prepare them to be sent to an expert for examination.

At this stage, a great responsibility lays upon the criminology experts that have the needed qualification implied by the specificity of this activity and the technical and scientific means necessary to elaborate fundamental scientific conclusions, both regarding the nature of modifications in the incriminated document, and the content of the writing and chemical composition of the ink used in editing the document.<sup>14</sup>

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<sup>13</sup> E. Stancu, *Tratat de criminalistică*, Ed. Universul Juridic, București, 2002, p. 259

<sup>14</sup> A. . Ciopraga, I. Iacobuță, *op. cit.*, Iași, 2001, p. 166

## **Criminal investigation of forgery in deeds**

### *Investigation of forgery by text addition*

Types of forgery: addition, re-drawing, insertion. Elements that have to be checked for forgery:<sup>15</sup>

- logical continuity of text;
- dimensional discrepancies in graphics, spaces, lines;
- whether or not the initial writing and the added one are made by the same person;
- pressure of the tip;
- different writing instruments;
- framing of text within the spaces of the media
- In practice, the forgery can be found as:
  - additions in the empty spaces between text and signature;
  - insertion of word, figures in the text;
  - addition of characters at the end of words or lines;
  - retouch of characters or figures.

When examining **forgery by addition** the following elements might be visible:

- excessive jamming of the text;
- excessive distortion of characters in order to complete the line;
- shortening or curving the lines

Aside from these graphical elements is to be noticed the colour difference of inks, their response to ultraviolet rays, spots where logically added strokes should overwrite initial strokes.

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<sup>15</sup> Constantin Drăghici, Adrian Iacob, *Tratat de Tehnică Criminalistică*, Ed. a – II – a, revăzută și adăugită, București, 2009, 9, p 219

Also, it could be noticed an interaction of writing materials, new ink and old one, or disruption of previous writing flow.

***Investigation of forgery by counterfeiting the writing (imitation or disguise)***

Handwriting is a conscious act of educating dexterities, with a relative stability because it may change in time depending on various conditions but without a radical change that would transform the skill entirely.

The handwriting keeps its peculiarities, especially the technical and graphical ones, therefore counterfeiting the handwriting is rather difficult, most frequently we have forged signatures, short notes or short texts.

These forgeries are committed by: imitation (free or slavish); copying; disguise.

***Forgery by free imitation***

Free imitation is done in most cases by remembering. Apparently a signature or counterfeit handwriting resembles largely the original one, especially when the forger has practiced the targeted signature or handwriting.

Imitation is easier in cases of handwriting inferior to the forger's handwriting, and also with simplified signatures.

Revealing such forgery is based upon the following:<sup>16</sup>

- presence some peculiarities of the forger's own handwriting, because of his graphic dexterities;
- small imperfections in executing and positioning diacritical signs and punctuation marks;
- positioning the text on page;
- occurrence of peculiar characteristics; orientation of movements, characters

liaisons, tip pressure, reduced speed of handwriting, discontinuities, retouches or shakings.

***Forgery by slavish imitation***

Slavish imitation is done by strictly following of the initial handwriting by the forger, from an original text in sight.

Revealing such forgery is based upon the following:<sup>17</sup>

- shaky strokes and discontinuities that can't be seen in the original handwriting;
- the uneven thickness of strokes, re-drawings and retouches in order to keep the shape of the characters;
- reduced speed of handwriting

Sometimes the slavish imitation is preceded by performing the handwriting with a pencil, then proceeding to re-draw with ink; it can be seen when examining with infrared.

***Forgery by copying***

Can be revealed thanks to some specific elements.

When copying by transparency, along with elements specific to slavish imitation, a very important characteristic is the coincidence of dimensions, of signature and handwriting with the initial text.

Same concurrence elements appear when copying with tracing paper or carbon paper (traces of carbon paper can be seen).

Unlike the free imitation forgery, when the forger can be easily identified, in cases of slavish imitation or copying, although the counterfeit is revealed, the author is more difficult to identify but not impossible.

<sup>16</sup> Popa Gheorghe, Buzatu Nicolae, Hanga Gheorghe, O. Conicescu - Exploatarea urmelor prin experta\* criminalistice, Editura ERA, București, 2005

<sup>17</sup> Mircea Ion , Criminalistica, Editura Lumina Lex, București, 2001.

### *Forgery by disguise*

- Can be done through<sup>18</sup>: modifying the inclination of the handwriting - the method is used most often, but, as concentration diminishes, the inclination tends to get back to normal until noticed by forger and corrected;
- modifying character size: shortening or enlarging;
- modifying the degree of evolution of the handwriting, is possible only for persons with more elevated handwriting;
- imitation of typographic characters;
- occurrence of general characteristics: writing speed, pressure, contiguousness, shape of lines;
- left-handed handwriting;
- personal characteristics.

Most frequently the small letters are changed into capital ones, the forger makes complicated shapes, deformations and changes the liaisons among them.

When intentionally modifying the characters, the main structural elements that are changed are: straight lines, ovals, curls, chains.

### *Examining stamp impressions*

Original stamps are manufactured in specialized shops, under regulations similar to typographical ones.

Practically there are three methods of counterfeiting stamp impressions:<sup>19</sup>

- drawing the impressions directly on the litigious document or on an intermediary object (eraser, potato);
- copying the original impressions from the original document on the forged one;
- counterfeiting the cliché.

Each of these methods has its own features.

One can notice perforation of the paper with the point when using a pair of compasses for drawing, traces of retouching, non-standard writing, asymmetries, differences in the thickness of the text, some errors.

When copying, there can be noticed some deformation of signs, traces of retouching, doubled strokes, shakings, and traces of pencil or carbon paper.

When the cliché has been counterfeited, one can notice non-standard characters, uneven thickness, abbreviations, jammed characters, errors.

### **Reference:**

1. Bercheșan V., Valorificarea științifică a urmelor infracțiunii, vol. III, Ed. Little Star, București, 2003;
2. Codul de procedură penală;
3. Codul penal;
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