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Data: 28/11/2026 05:30:44

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Public Documents Act and Its Role in Preventing Document Forgery

Ustawa o dokumentach publicznych i jej rola w zapobieganiu fałszerstwom dokumentów

SUMMARY

Forgeries of documents concern almost all types – from ID cards, passports, to money marks and securities. This procedure is a serious threat to proper legal transactions. Security of legal transactions means the need to ensure the credibility of documents by caring for trust in the document as a formal way of ascertaining the law, legal relationship or circumstances that may have legal significance. For this reason, the document benefits from protection in many areas. There are nearly 400 legal acts in the legal system in force in Poland, the subject of which are documents. Representatives of the scientific community, lawyers and experts in the field of document research, however, have for years emphasized the need for a legal act to legally organize the issues of documents. The Act of 22 November 2018 on Public Documents, therefore, constitutes a long-awaited legal regulation and thus is an important element in the process of preventing crimes against the credibility of documents, filling the organizational and legal gap in the broadly understood issue of public documents. The Act had to be a form of coherent, comprehensive legal regulation that would be used in both administrative, civil and criminal law. Its solutions should be considered as correct and necessary in creating a system of public document security. The implementation of the provisions of the Act on Public Documents gives hope for comprehensive regulation of the indicated issues. Both from the perspective of securing the interests of the state and its citizens, the Act deserves a positive assessment of its provisions.

Keywords: Public Documents Act; document reliability; protection against forgery; security of public documents; crime against documents; document forgery

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Data: 28/11/2026 05:30:44

INTRODUCTION

On 12 July 2019, the Act of 22 November 2018 on Public Documents entered into force[1]. It is worth emphasizing that the Act is a long-awaited legal regulation. Academics, lawyers and experts in the field of document research had highlighted for years the need to have a legal act that would organize legislatively the issues of public documents, thus indicating the fundamental matters that should be covered by legal regulations[2]. It should be emphasized at the same time that nearly 400 legal acts are in force in the present legal system[3], and documents are the subject of their regulations. The purpose of this article is not to analyze the issue of the document and its functioning in the current legal order. It is an analysis of the provisions of the Public Documents Act, which are so important for all areas of law and for the proper functioning of legal entities in the context of contemporary threats posed by document forgery.

MAIN OBJECTIVES OF THE ACT AGAINST THE BACKGROUND OF THREATS ARISING FROM THE CRIME OF DOCUMENT FORGERY

The main objective of the Act is to create an effective system of public document security by defining security standards related to ordering, production, use and application, including storage of public documents. In other words, the new provisions are to help in the fight against forgery of documents and their use for criminal purposes. The need to create a coherent system guaranteeing the appro-

[1] Consolidated text Journal of Laws 2019, item 53 as amended, hereinafter: the Act or PDA. The draft act was submitted to the Sejm on 20 December 2017. See *Rządowy projekt ustawy o dokumentach publicznych*, druk nr 2153, www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?nr=2153 [access: 7.11.2019].

[2] For more, see M. Goc, *O projekcie ustawy o dokumentach publicznych uwag kilka*, „Człowiek i Dokumenty" 2017, no. 44, p. 17. It should be emphasized that the Polish Forensic Society (PFS) already in 2006 prepared a draft act on public documents, which was forwarded for further proceedings. The draft consisted of four chapters and fifteen articles. The Act, i.a., defined the terms "a public document", "an official document" and "a document specimen"; it provided the classification of public documents; it specified the rules and requirements for the production of public documents and obligations of the entity authorized to produce public documents as well as obligations of the issuer. As a result of the projects and initiatives undertaken by the PFS aimed at a statutory regulation of public documents, during a meeting of the PFS representatives with the Undersecretary of State at the Ministry of Internal Affairs and Administration, on 1 March 2016, the Ministry of Internal Affairs and Administration declared to prepare a draft act on public documents. It should be emphasized here that in 1998 a draft act was also developed by Prof. J. Widacki. See idem, *Ustawa o dokumentach publicznych potrzebna od zaraz*, „Człowiek i Dokumenty" 2016, no. 41, p. 11.

[3] MSWiA, *Wszystko, co trzeba wiedzieć o ustawie o dokumentach publicznych*, www.gov.pl/web/mswia/wszystko-co-trzeba-wiedziec-o-ustawie-o-dokumentach-publicznych [access: 10.11.2019].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

priate level of security is a *sine qua non* condition in the process of preventing and combating crimes against credibility of documents catalogued in chapter XXXIV of the current Criminal Code[4]. The provisions of the Criminal Code define the concepts of material falsehood and intellectual falsehood. The first of these is characterized by two forms: counterfeiting and alteration of the document, which is associated with the impact on the material of the document in order to give it an appearance of authenticity[5]. The essence of intellectual falsehood is expressed in an untrue certification as to the circumstances of legal significance by a public official or another person authorized to issue a document. Falsifications of documents have become widespread criminal acts[6], which often constitute an inherent component of modern organized crime.

In the reference literature, as well as in expert practice, it is emphasized that in the last several decades the crime related to document forgery has increased significantly. This is also confirmed by data from various institutions, including, i.a., the Polish Bank Association. It results from them that in 2019 the number of thwarted attempts of loan extortions amounted to more than 5 thousand, and their amount was close to PLN 274 million. Statistically, in the third quarter of 2019, there were 13 attempts of extortions a day, which, in comparison with other data, means that every day there were attempts to steal on someone else's name of a total of PLN 724 thousand[7]. A less optimistic version should be assumed that this tendency will increase. This can be evidenced by the Police data, according to which the number of qualified crimes under Article 270 CC amounted to 26,988 in 2015, and a year later it increased to 28,432[8]. These data are reflected in the number of

[4] Act of 6 June 1997 – Criminal Code (consolidated text Journal of Laws 2019, item 1950 as amended), hereinafter: CC.

[5] More broadly, see judgement of the Supreme Court of 27 November 2000, III KKN 233/98, LEX no. 51125; H. Kołecki, *Pojęcie dokumentu sfałszowanego i fałszywego w Polsce i w krajach Unii Europejskiej*, [in:] *Technicznokryminalistyczne badania autentyczności dokumentów publicznych. Materiały I konferencji, Poznań, 27–28 listopada 1997*, ed. H. Kołecki, Poznań 2002, p. 189; J. Piórkowska, *Komentarz do art. 270 Kodeksu karnego*, [in:] *Kodeks karny. Komentarz*, ed. T. Bojarski, Warszawa 2016, p. 812; W. Wróbel, T. Sroka, *Komentarz do art. 270 Kodeksu karnego*, [in:] *Kodeks karny. Część szczególna*, vol. 2, part 2: *Komentarz do art. art. 212–277d*, eds. W. Wróbel, A. Zoll, Warszawa 2017, p. 695.

[6] More broadly, see E. Gruza, M. Goc, *Genialny fałszerz czy bezradny ekspert*, [in:] *Znaczenie aktualnych metod badań dokumentów w dowodzeniu sądowym. Materiały z XIV Wrocławskiego Sympozjum Badań Pisma, Wrocław 2010*, eds. Z. Kegel, R. Cieśla, Wrocław 2012, p. 85.

[7] Związek Banków Polskich, *Raport o dokumentach infoDok III kwartał 2019 r.*, www.zbp.pl/getmedia/2ded4fc6-6484-434e-a75f-22c9d4aec208/infodok-2019-07-09-wydanie-39-sklad-191027-gk [access: 19.01.2020], p. 4.

[8] *Przestępstwa przeciwko wiarygodności dokumentów*, https://statystyka.policja.pl/st/kodeks-karny/przestepstwa-przeciwko-15 [access: 19.01.2020].

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Data: 28/11/2026 05:30:44

persons convicted of offences under Article 270 CC, which according to the data of the Ministry of Justice amounted to 5,975 in 2015, and in 2016 – to 6,914[9].

Forgeries of documents, which constitute a crime *per se*, are very often preparatory activities for committing further illegal acts. They are also a tool aimed at blurring the traces of other committed crimes[10]. K. Sławik emphasizes that despite the fact that in recent years the scale of document forgeries has been characterized by a growth dynamic, the set of documents falsified by counterfeiting and alteration as well as documents confirming falsehood is relatively constant[11]. As a result of introducing false documents into legal circulation, the most common crimes related to their illegal use include the aforementioned extortion of loans and goods, crimes related to foreign trade, as well as the sale of stolen cars. All this makes the modern crimes committed against documents constitute a significant proportion of the total number of criminal offences. Criminals create fictitious identities based on falsified identity cards or passports[12], using new technologies, thanks to which they are often ahead of law enforcement agencies in their actions.

A new type of identity theft should also be indicated. The number of frauds involving the use of foreign documents by persons who impersonate their legitimate owners is increasing. These people use their similarity to the image in the document photo. This applies above all to the situation at border crossings, because increasingly better protection of passports, hindering their forgery, promotes the use of genuine documents by people who look similar to their real owners. In this case, it should be emphasized that the widespread use of the latest technologies

[9] Ministerstwo Sprawiedliwości, *Statystyka sądowa. Prawomocne osądzenia osób dorosłych*, Warszawa 2019, p. 61.

[10] N. Nastula, *Fałszerstwo dokumentów ze szczególnym uwzględnieniem przestępczości internetowej jako wyzwanie dla organów państwa*, „Polonia Journal" 2018, no. 8, p. 73, 86; H. Kołecki, *op. cit.*, p. 32.

[11] More broadly, see K. Sławik, *Rozmiary i dynamika fałszerstw (Polska, lata 2008–2009)*, [in:] *Znaczenie aktualnych metod badań dokumentów…*, pp. 328–329; *Technicznokryminalistyczne badania autentyczności dokumentów publicznych*, ed. H. Kołecki, Poznań 2002, pp. 84–90.

[12] In recent years, documents in the form of polycarbonate cards (e.g. an identity card) and paper core documents (e.g. a driving licence) as well as blank documents (e.g. a registration card) have been mainly counterfeited. In the counterfeited documents, the personal data of a new owner may be fictitious, authentic, or belong to another person. In each of these cases, the imitated documents are made similar to the existing specimens, both by the type of the material used, the dimensions, as well as by the graphic design and colour. A counterfeiter who produces the counterfeited document is not able to imitate effectively all the protection parts. Most often his or her attention is focused on making a reliable imitation of one representative element, or on inserting (transplanting) a genuine element originating from an authentic document. A person who has a counterfeited document during its presentation or control, being aware of its "strong point", often suggests checking it. See T. Luśnia, *Elementy uwiarygodniające w dokumentach sfałszowanych metodą podrobienia*, [in:] *Technicznokryminalistyczne badania autentyczności dokumentów publicznych. Materiały 8. konferencji, Poznań, 29–30 września 2011*, ed. H. Kołecki, Poznań 2012, pp. 17–18.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

and chips, with biometric data placed on them, is not, contrary to expectations, accompanied by a quick verification of the identity of people who hold such documents. The reason is the lack of professional equipment enabling identification at many border crossings[13].

DEFINITION AND CATEGORIES OF PUBLIC DOCUMENTS

The previous lack of comprehensive regulations in terms of public document security was compensated by the new Act with some provisions defining operative rules for the security system of public documents, which includes: designing, manufacturing, storage and authentication of public documents, as well as initiating changes in their protection against counterfeiting based on an analysis of forgery cases of these documents, raising the level of education in the field of knowledge about the security of public documents, and cooperation with international institutions and organizations whose subject of interest is the security of public documents. Importantly, the new legal act introduces the definition of a public document. It should be emphasized that Polish criminal, civil and administrative codes, of both substantive and procedural law, as well as other legal acts, do not use the notion of a public document. Everywhere in said acts all documents are divided into official and private documents[14]. On the other hand, according to Article 2 (1) point 2

[13] K. Izak, *Oryginalne paszporty w rękach terrorystów oszustów*, „Człowiek i Dokumenty" 2019, no. 52, p. 44. See also R. Lewandowski, *Tożsamość – identyfikacja – dokument*, „Człowiek i Dokumenty" 2019, no. 54, pp. 18–23.

[14] More broadly, see *Technicznokryminalistyczne badania…*, pp. 15–19, 79. The framework of the article does not allow discussing specific issues related to the functioning of the concept of "a document" in the doctrine and judicature. It should be mentioned, however, that in the existing legal acts, the definition of a document is defined only by the Criminal Code. In Article 115 § 14 of the currently applicable version of the Penal Act, the document has been broadly defined as: any object or another recorded information carrier with which a given right is associated, or which, due to its content, constitutes legal evidence, a legal relationship or circumstances of legal significance. Thus, the Criminal Code is the only legal act containing a legal definition of a document, i.e. a definition which is missing in a number of other regulations that correspond much more with the subject of a document. It should also be emphasized that in civil law – both substantive and procedural, the concept of a document appears many times. In the applicable Civil Procedure Code (Act of 17 November 1964 – Code of Civil Procedure, consolidated text Journal of Laws 2019, item 1460 as amended), pursuant to Article 244 § 1, a document can be exclusively referred to as an official document that has been made in the prescribed form by public authorities established for that purpose and other state agencies within the range of their activities. Official documents constitute the evidence of what has been officially certified in them. Official documents play a special role in administrative law, although, like in civil proceedings, private documents function in the administrative procedure (despite the fact that the Code of Administrative Procedure does not mention them) (see P. Przybysz, *Kodeks postępowania administracyjnego. Komentarz*, Warszawa 2005, p. 180, quoted after: J. Błachut, *Dokument jako przedmiot ochrony prawnokarnej*,

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

PDA, a public document is a document protected against forgery, which is used to identify people or things, or which confirms the legal status or the rights of the persons who use it. Such a document is produced according to a specimen specified in the provisions of generally applicable law or its graphic pattern and form have been approved by the entity carrying out public tasks and authorized on the basis of separate provisions and which is in line with the requirements for the blank form of such a document specified in the provisions of generally applicable law. Within the meaning of the provisions of the Act, a public document is also its copy, extract, duplicate and ditto copy. Paragraph 3 in points 1–3 of Article 2 PDA also includes into public documents enforcement titles issued by courts or court referendaries, copies of final court rulings from which acquisition, existence or termination of a right arises, or which relate to marital status, copies of judgements or certificates confirming the right to represent a given person, perform a legal action or manage specific assets, issued by courts. The provisions of Article 2 (3) points 4 and 5 are reference provisions, according to which copies of court and court referendaries' orders on granting an enforcement clause to orders other than those listed in Article 777 § 1 points 1 and 1^1 of the Act of 17 November 1964 – Code of Civil Procedure, when their object are enforcement clauses not issued by the court, and extracts, copies and excerpts of documents including notarial acts referred to in Article 79 points 1–1b and 4, certifications referred to in Article 79 point 2, and protests referred to in Article 79 point 5 of the Act of 14 February 1991 – Notary Law[15].

A certain novelty is the typification of public documents by the legislator into three categories, depending on their importance for State security. Pursuant to Article 5 (2) PDA, the first of them include those documents which are the most important from the viewpoint of State security and whose production takes place in a way that considers special security measures. Within the meaning of the provisions of the Act, these are, i.a., the identity card, the passport, documents issued under Article 44 (1) and Article 83 (1) of the Act of 28 November 2014 – Law on Civil Status Files[16]; documents issued to a foreigner pursuant to Articles 37 and 226

Warszawa 2011, p. 19). The significance of a document under administrative law is combined with official documents and their evidentiary function. The Code of Administrative Procedure (Act of 14 June 1960 – Code of Administrative Procedure, consolidated text Journal of Laws 2020, item 256) does not define the concept of an official document, but it results from the content of Article 76 § 1 that it should be understood in a similar way to civil procedure. Auxiliarily, the definitions appearing in other statutes of broadly understood administrative law may be used in this respect, e.g. in Article 6 (2) of the Act of 6 September 2001 on Access to Public Information (consolidated text Journal of Laws 2019, item 1429), according to which an official document, within the meaning of the Act, is the content of a declaration of will or knowledge, recorded and signed in any form by a public official within the meaning of the provisions of the Criminal Code, within his or her competence, referred to another entity or submitted to files. See J. Błachut, *op. cit.*, pp. 19–20.

[15] Consolidated text Journal of Laws 2019, item 540 as amended.

[16] Consolidated text Journal of Laws 2020, item 463 as amended.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

of the Act of 12 December 2013 on Foreigners[17]; documents issued to members of diplomatic missions and consular posts of foreign countries, and other persons equated with them on the basis of statutes, agreements, or commonly established international customs, as well as documents issued to their family members remaining with them in their home community pursuant to Article 61 of the Foreigners Act; executive titles issued by courts and court referendaries, the Card of the Pole, the driving licence, the identity card documenting disability or degree of disability; the professional registration certificate and the vehicle registration certificate, excluding vehicle registration documents, referred to in Article 73 (3) of the Act of 20 June 1997 – Road Traffic Law[18]; the right to practice the medical profession; the right to practice the profession of a dentist; service cards of, i.a., the Police, the Border Guard, the State Protection Service, the Internal Security Agency, the Central Anti-Corruption Bureau, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Road Transport Inspection and the Military Police[19].

Pursuant to Article 5 (3) PDA the second category of public documents comprises documents important for national security, security of business and legal transactions including, i.a., those related to weapons, international transport of dangerous goods, confirming higher and specialist education, and maturity certificates, other than those mentioned in paragraph 2.

The third category includes documents affecting security of business and legal transactions. In accordance with Article 5 (4) PDA, these comprise: concessions, permits, licenses, attestations, diplomas and certificates related to transport safety, documents confirming professional qualifications, school leaving certificates, school and student identity cards, as well as documents entitling to various reliefs, other than those mentioned in paragraphs 2 and 3[20].

PROTECTION AGAINST FORGERY AND VERIFICATION OF PUBLIC DOCUMENTS

The problem of document classification into the above-described categories closely corresponds with the question of public documents protection against their forgery. The issue of the low protection level of official documents against coun-

[17] Consolidated text Journal of Laws 2020, item 35 as amended.

[18] Consolidated text Journal of Laws 2020, item 110 as amended.

[19] More broadly, see Article 5 (2) points 1–32 PDA.

[20] A detailed list of public documents belonging to the second and third category is specified in the Regulation of the Council of Ministers of 11 July 2019 on the List of Public Documents (consolidated text Journal of Laws 2019, item 1289).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

terfeiting has been often raised by representatives of expert and scientific circles[21]. Pursuant to the provisions of Article 7 (1) of the binding Act, minimum protection against forgery was established for public documents. In the process of defining them, the legislator considered four factors. The first of them – which is obvious – was the category of documents; the second was their function; the next factor was the materials from which public documents were made; and the fourth – the ability to verify the authenticity of public documents. The analyzed article of the Act, and more specifically its paragraph 2 allows to state that techniques and technologies used in these documents and integral elements related to the blank form of a public document, aimed at hindering counterfeiting of public documents should be considered as protection of public documents against forgery[22]. For the first category of public documents, the Act sets out two groups of minimum anti-counterfeiting safeguards, the first of which is applied to public documents confirming identity and travel documents, while the second group is applied to other public documents.

The provision of Article 7 (5) PDA indicates that the authority responsible for determining a list of minimum anti-forgery safeguards required for individual groups of public documents, taking into account their categories, the materials from which these documents are made, the functions of individual categories of documents and the possibility of verifying their authenticity in the first, second and third degree, is the minister competent for internal affairs. Said list was included in the Regulation of the Minister of Internal Affairs and Administration of 2 July 2019 on the List of Minimum Safeguards against Forgery of Public Documents[23]. The extension of the provisions governing the issue of minimum safeguards against forgery of public documents is provided for in Article 8 PDA, according to which the issuer of a public document may, in consultation with the Commission, introduce additional safeguards against forgery.

As indicated above, the list of minimum safeguards against counterfeiting is drawn up, i.a., based on the ability to verify the authenticity of a public document.

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[21] More broadly, see M. Goc, *Ustawa o dokumentach publicznych…*, p. 8, 15.

[22] The reference literature emphasizes the view that it is impossible to protect documents fully against counterfeiting. It is only possible to limit the scale of counterfeits by incorporating multiple protective features into original documents that are difficult to be used in counterfeited documents. It is worth noting that forgery of public documents made by their altering shows relatively low indicators in relation to counterfeits. H. Kołecki (*Technicznokryminalistyczne badania…*, p. 42) emphasizes that in modern times counterfeiting of public documents takes place on a quasi-industrial scale, their altering is in individual cases.

[23] More broadly, see the Annex to the Regulation of the Minister of Internal Affairs and Administration of 2 July 2019 on the List of Minimum Safeguards against Forgery of Public Documents (Journal of Laws 2019, item 1281). See also T. Wójcik, M. Borowski, *Ewolucja standardów bezpieczeństwa w polskich dokumentach w latach 2006–2011*, [in:] *Technicznokryminalistyczne badania autentyczności dokumentów publicznych. Materiały 8. Konferencji…*, pp. 45–51; A. Wojciechowska, *System zabezpieczeń nowego paszportu polskiego*, „Człowiek i Dokumenty" 2018, no. 51, pp. 14–21.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

The Act provides for four levels of verification. The first one is intended for people checking the authenticity of submitted public documents without the use of technical equipment. The second one – for employees of public entities verifying the authenticity of submitted public documents using generally available devices that enlarge or emit UV radiation. The next level of verification of the authenticity of public documents is directed to experts of specialized forensic laboratories. The fourth and last one is intended for experts of an entity appointed by the Minister. In the widespread everyday use of public documents, we will most often experience the first and second level of the authenticity verification of documents that we possess, because a public official who, within his or her competence, performs actions on the basis of presented or submitted public documents, will control their authenticity in the scope of the above-mentioned first stage verification, as well as the second stage, if he or she has at his or her disposal any devices that magnifies or emits UV radiation. In the intention of the legislator, it should make it possible to eliminate a large part of false documents from the legal circulation already at the initial stage of their use. It should be emphasized, however, that the effectiveness of actions aimed at excluding them from the legal circulation is largely determined by the skills of the officers involved in the document verification process, which corresponds closely to training in the field of document authenticity. It should also be borne in mind that, despite the increasingly effective methods to protect documents, document counterfeiters are using increasingly advanced methods of counterfeiting and altering them, which makes the process of document authenticity verification significantly more difficult.

ENTITIES RESPONSIBLE FOR SHAPING THE POLICY OF PUBLIC DOCUMENTS PROTECTION

An important gap in the existing regulations for ensuring safety and reliability of the documents was a lack of an authority responsible for shaping security policy regarding the discussed issues at the government level. Pursuant to the provisions of Article 1 (3) PDA the policy shaping of public document security and ensuring the functioning of the security system of the documents were entrusted to the minister responsible for internal affairs (hereinafter: the Minister). Detailing of said tasks was contained in Article 3 (1) points 1–9 of the Act. It follows from their content that in order to fulfil the duties entrusted to him or her, he or she: takes part in the procedure of developing a public document specimen; analyzes cases of public documents falsification; initiates changes in the safeguarding of public documents against forgery; assesses the quality of the issued public documents referred to in Article 5 (2) points 1–31; monitors changes taking place in the world in the field of document protection against forgery; cooperates with international institutions and

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

organizations dealing with protection and safeguarding of public documents against counterfeiting' publishes information on public document specimens in the Register of Public Documents; undertakes actions aimed at raising the level of education in the field of knowledge about the possibilities and ways of recognizing forged public documents; and controls producers of public documents blank forms. An analysis of the above-mentioned activities entrusted to the minister responsible for internal affairs indicates introduction of comprehensive regulations on the security of public documents from the earliest stage, i.e. their designing, through supervising their production, as well as preventive and educational activities.

An analysis of further provisions of the Act indicates that the above-described duties of the Minister will be implemented with the help of a newly established Commission for Documents (hereinafter: the Commission)[24]. Its composition consists of: seven members appointed from among the persons performing official duties in the Ministry; up to fifteen members appointed from among the employees of organizational units supervised by the Minister, officers or employees delegated by the Chief Police Commander, the Chief Commander of the Border Guard, and the Head of the Internal Security Agency for the time necessary to perform their tasks; up to five members appointed from among the experts from other entities dealing with public documents. One of such entities is the Polish Forensic Society whose representative is a member of the Commission. The provision of the Act stating the requirement of having at least 5 years of documented experience in expert activity in the field of examining the authenticity of public documents by the chairperson and deputy chairperson of the Commission or at least 5 years of documented experience related to designing of public document security systems is highly justified.

VARIA

Regarding other issues specified in the Act, it is worth pointing to criminal sanctions provided for by its provisions. Article 58 PDA introduces criminal responsibility for manufacturing, offering, selling or keeping for sale of a replica of a public document. A person committing the above-mentioned acts is subject to a fine, the penalty of liberty restriction or deprivation of liberty for up to 2 years. Pursuant to the provision of Article 2 (1) point 6 PDA, a replica is a reproduction or copy of the size from 75% to 120% of the original with the authenticity features of a public document, or a public document blank form, excluding photocopies or

[24] It should be emphasized that the Commission assesses the quality of the issued public documents on the basis of public documents received from the issuers of the documents, returned by their holders indicating damage as a result of a technical defect.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

computer printout of a public document, made for official, business or professional purposes determined on the basis of separate provisions or for the use of the person for whom the public document has been issued. This criminal provision was created, i.a., in response to the phenomenon of offering the so-called collector's documents[25]. This regulation is also supposed to be a response to the increasingly frequent cases of identity theft, i.e. a situation when someone has acquired, e.g., a scan of our identity card and used it for illegal purposes[26]. One of the priorities of the regulations adopted in the Act on Public Documents is, therefore, to ensure their protection and their owners against the production of false documents that are confusingly similar to the originals and can, therefore, become a tool for committing a crime. Importantly, contrary to frequently appearing information that the disposition of the newly introduced criminal provision included making photocopies of a document to confirm identity (which could involve a penalty of 2 years imprisonment for photocopying), the position of the Ministry of Interior and Administration should be indicated, in which it has been clearly stated that making a black and white photocopy of a document is not subject to the sanction specified in the new legal regulations[27].

As mentioned earlier, the Act assumes creation of a register of public documents, which will be kept by the Ministry of Internal Affairs and Administration. Importantly, the register will provide citizens with online access to current document specimens with a description of the basic protection features and how to verify their authenticity[28]. The new regulations also specify the requirements for producers of public documents to ensure their safe production. All blank forms of public documents that are the most important for the security of the State will be produced by a sole shareholder company of the Treasury. The Act also introduces the regulation of storing public documents and their blank forms[29].

Contrary to the information disclosed to the public, the Act does not introduce a penalty for making photocopies of documents, e.g. at a bank. It is important to distinguish counteracting forgery of public documents by prohibiting creation of their replicas from copying personal data contained in the documents. The Public

[25] MSWiA, *op. cit*.

[26] In addition, some reference should also be made to criminal penalties provided for commission of crimes related to various forms of document forgery and use of such documents for criminal activities, and which were included in two chapters of the current Criminal Code, i.e. in chapter XXXIV, entitled "Offences against credibility of documents", and in chapter XXXVII entitled "Offences against circulation of money and securities". The latter of the mentioned chapters concerns, i.a., the issues of counterfeiting money and securities; circulating of counterfeited or altered money, means of payment and payment documents; falsification of official signs of payment.

[27] *Ustawa o dokumentach publicznych – co się zmienia i czy rzeczywiście zakazano kserowania dowodów osobistych?*, http://prawniczy-blog.pl/?p=510 [access: 7.05.2020].

[28] MSWiA, *op. cit*.

[29] More broadly, see Article 43 PDA.

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Data: 28/11/2026 05:30:44

Documents Act does not contain regulations in the area of obtaining personal data as a result of copying documents. This issue is regulated by the provisions of the Personal Data Protection Act[30].

CONCLUSION

In the light of the views presented in the reference literature, which are justified by expert practice, one should point to an increase in the number of crimes against credibility of documents[31]. Forgeries concern almost all document classes. Crimes related to documents are a substantial threat to economic stability and correct actions of State authorities, and the scale of document forgery is exceptionally large ranging from identity cards and passports, to official signs of payment and securities. In the process of preventing and combating such crimes, priority should be given to systemic actions, including legal mechanisms in the form of statutory regulations regarding public documents issues. The Public Documents Act undoubtedly constitutes an important element of this process and fills the organizational and legal gap in the universally understood issue of public documents. The necessity of its implementation had repeatedly been raised by representatives of scientific and expert circles who, during the ongoing discussions on this topic, pointed to the normative chaos in the area of public documents issues. Due to the lack of basic regulations in this respect, e.g. regarding the legal definition of a public document, the categorization of public documents, the specification of minimum safeguards for these documents against falsification, and finally the establishment of one entity responsible for all the discussed issues, the Act had to be in a form of a coherent, comprehensive legal regulation, which would be used in both administrative, civil and criminal law. Its solutions should be considered as correct and necessary in creating a system of public document security. The implementation of its provisions gives hope for comprehensive regulation of the indicated issues, both from the perspective of securing the interests of the State and its citizens. The Public Documents Act deserves a positive assessment of its provisions.

[30] *Ustawa o dokumentach publicznych. Czy nowe przepisy zabezpieczą przed fałszerstwem*, „Gazeta Prawna", 11.07.2019.

[31] More broadly, see M. Goc, *Przestępczość przeciwko dokumentom wciąż groźna*, „Człowiek i Dokumenty" 2016, no. 43, pp. 29–36.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 28/11/2026 05:30:44

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Data: 28/11/2026 05:30:44

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STRESZCZENIE

Fałszerstwa dokumentów dotyczą niemalże wszystkich ich rodzajów – od dowodów osobistych, paszportów, aż po znaki pieniężne i papiery wartościowe. Proceder ten stanowi poważne zagrożenie dla prawidłowego obrotu prawnego. Bezpieczeństwo obrotu prawnego oznacza konieczność zapewnienia wiarygodności dokumentów poprzez dbałość o zaufanie do dokumentu jako formalnego sposobu stwierdzenia prawa, stosunku prawnego lub okoliczności mogącej mieć znaczenie prawne. Z tego powodu dokument korzysta z ochrony wielu dziedzin. W obowiązującym w Polsce systemie prawnym funkcjonuje blisko 400 aktów prawnych, których przedmiot regulacji stanowią dokumenty. Przedstawiciele środowiska naukowego, prawnicy oraz eksperci z zakresu badań dokumentów od lat podkreślali konieczność funkcjonowania aktu prawnego uporządkowującego legislacyjnie problematykę dokumentów. Ustawa z dnia 22 listopada o 2018 r. o dokumentach publicznych stanowi zatem długo wyczekiwaną regulację prawną, a tym samym jest istotnym elementem w procesie przeciwdziałania przestępstwom przeciwko wiarygodności dokumentów, wypełniając organizacyjno-prawną

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Data: 28/11/2026 05:30:44

lukę w szeroko rozumianej problematyce dokumentów publicznych. Ustawa musiała stanowić formę spójnego, kompleksowego uregulowania prawnego, które będzie wykorzystywane w prawie administracyjnym, cywilnym i karnym. Jej rozwiązania należy uznać za słuszne i niezbędne w tworzeniu systemu bezpieczeństwa dokumentów publicznych. Realizacja przepisów ustawy o dokumentach publicznych daje nadzieję na całościowe uregulowanie wskazanej problematyki. Z perspektywy zabezpieczenia interesów zarówno państwa, jak i jego obywateli ustawa zasługuje na pozytywną ocenę zawartych w niej przepisów.

Słowa kluczowe: ustawa o dokumentach publicznych; wiarygodność dokumentów; zabezpieczenia przed fałszerstwem; bezpieczeństwo dokumentów publicznych; przestępstwa przeciwko dokumentom; fałszerstwa dokumentów

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