

JACEK A. DĄBROWSKI*

DOI: 10.26399/iusnovum.v14.4.2020.44/j.a.dabrowski

**Gloss on the Supreme Court ruling
of 13 June 2019, III KK 280/18**

THESIS

The expression ‘for reasons undetermined, he drove over to the roadside and lost control of the vehicle’, as referred to the convicted defendant, permits the identification of their violation of traffic rules in the form of culpable loss of control of the vehicle for no external causes but only ones imputable to the perpetrator.¹

COMMENTARY

In the ruling under analysis, the Supreme Court once again took a position on the popular judicial practice of replacing – in the description of the conduct imputed to a defendant – of the statutory elements of a crime with a pertinent explanation of the perpetrator’s conduct. The Supreme Court was correct in deciding that, in the case of a criminal traffic incident (Article 177 § 1 or 177 § 2 of the Criminal Code, hereinafter CC), in reference to the element of ‘violating the rules of land traffic’, any such practice must still allow the unequivocal identification of the violated rule of caution.

In a conviction, the mandatory elements of the dispositive part include, without limitation, the specific description of the act imputed to the defendant along with its legal classification (Article 413 § 2(1) of the Criminal Procedure Code, hereinafter CPC). This provision does not scale down the elements of the act description.

* PhD, Assistant Professor at the Department of Criminal Law of Lazarski University in Warsaw, senior judge’s assistant at the Supreme Court Criminal Chamber; e-mail: jacek.dabrowski@lazarski.pl; ORCID: 0000-0002-4908-4167

¹ The Supreme Court ruling of 3 June 2019, III KK 280/18, Prokuratura i Prawo-wkł. Orzecznictwo 6, 2020, item 8.

Due to the fact that the conviction disposes of the subject-matter of the criminal proceedings, that is the convicted defendant's liability for the act imputed to them in the indictment (or an instrument substituting it), one can look for interpretative assistance to Article 332 § 1(2) CPC, which establishes the minimum requirements for the description of the act imputed to the defendant. This provision requires the description to include the time, place, manner and circumstances of the crime commission, as well as its consequences, especially concerning the value of the harm inflicted, and thus factors belonging to the essence of the criminal act. The description must expound on all relevant circumstances of the defendant's conduct, leaving no doubt as to the act they are being convicted of.² Thus, it must be precise, clear and not susceptible to differing interpretations.³ However, it should be free of any circumstances not pertaining to the essence of the act, so as to avoid needless obfuscation of the matter. In particular, it will be superfluous to refer to any facts or circumstances that are neutral to the legal classification, even if they are pertinent to the application of some institutions or other of substantive criminal law to the defendant,⁴ or are relevant only to the sentencing.⁵ Repeating the elements of the statutory definition of the criminal offence without scaling them down and applying them to the specific event will fall short of the requirements of Article 413 § 2(1) CPC.

What is of primary significance is the obligation to demonstrate firmly that the defendant has fulfilled all of the statutory elements of the criminal offence defined in the statute (Article 115 § 1 CC), reflecting every aspect of the perpetrator's conduct.⁶ No element on which the unlawfulness of the conduct depends may be omitted from the defendant's conviction.⁷ Failure to satisfy this requirement and convicting

² The Supreme Court judgment of 28 October 1968, IV KR 188/68, OSNKW 1969, No. 5, item 52.

³ The Supreme Court judgment of 31 January 2018, IV KK 286/17, LEX No. 2449308; the judgment of the Court of Appeal in Wrocław of 31 October 2019, II 213/19, LEX No. 2749796.

⁴ The Supreme Court ruling of 18 February 2009, IV KK 303/08, Prokuratura i Prawo-wkł. 7-8, 2009, item 23.

⁵ The Supreme Court judgment of 24 March 1983, IV KK 49/83, OSPiKA 1984, No. 6, item 126.

⁶ The Supreme Court ruling of 26 October 1995, II KRN 131/95; the Supreme Court judgments: of 27 January 2006, IV WK 27/05, OSNKW-R 2006, item 2234; of 9 February 2006, III KK 164/05, Prokuratura i Prawo-wkł. 9, 2006, item 12; of 9 February 2006, IV KK 228/05, LEX No. 176033; of 8 March 2006, IV KK 281/05, LEX No. 181403; of 4 April 2006, III KK 306/05, OSNKW 2006, No. 7-8, item 69; of 25 April 2006, III KK 409/05, OSNKW 2006, No. 7-8, item 72; of 30 August 2006, IV KK 262/06, LEX No. 192998; the Supreme Court ruling of 19 October 2006, IV KK 246/06, LEX No. 202125; the Supreme Court judgment of 8 November 2006, IV KK 299/06, OSNKW 2007, No. 2, item 13; the Supreme Court ruling of 1 February 2007, II KK 141/06, Prokuratura i Prawo-wkł. Orzecznictwo 7-8, 2007, item 20; the Supreme Court ruling of 28 June 2007, IV KK 101/07, LEX No. 280739; the Supreme Court judgments: of 29 May 2012, III KK 87/12, Biul.PK SN 2012, No. 5, item 22; of 22 March 2012, IV KK 375/11, OSNKW 2012, No. 7, item 78; of 26 January 2012, IV KK 326/11, Prokuratura i Prawo-wkł. 7-8, 2012, item 11; of 29 May 2012, III KK 87/12, Prokuratura i Prawo-wkł. 12, 2012, item 15; the Supreme Court ruling of 4 April 2013, II KK 71/13, OSNKW 2013, No. 8, item 65; judgment of the Court of Appeal in Poznań of 13 September 2012, II AKa 170/12, Krakowskie Zeszyty Sądowe 3, 2013, item 80.

⁷ The Supreme Court judgment of 26 March 2019, IV KK 109/18, LEX No. 2647175.

the defendant for a criminal offence without completing all of the elements will lead to a violation of the constitutional principle of *nullum crimen sine lege* (Article 42 para. 1 of the Polish Constitution), repeated in Article 1 § 1 CC as the most basic precondition of any criminal liability.

The simplest way to discharge this obligation is to draft the description of an act using the statutory expressions defining the various elements of the offence, that is borrowing from the 'statutory language'.⁸ The description of the offence that is a criminal incident in road traffic, whose elements include, *verba legis*, at least unintentional violation of a safety rule in land traffic, should also contain the determination of the type of culpability in the violation; the scholarship⁹ and the courts¹⁰ are unanimous about this.

It is of key importance to identify the rule of traffic safety the defendant has violated. On the other hand, the question arises whether the description of the act should always reflect the statutorily defined rules of caution on and near the road. In the ruling at hand, the Supreme Court was correct to find that the drafting of the description of the act without including the terminology of the Act of 20 June 1997: Law on road traffic¹¹ but sufficiently establishing the violation of the rules of road safety does not necessarily contravene Article 413 § 2(1) CPC, let alone violate substantive law (Article 177 § 2 CC) by omitting any element of the crime.

Scholars aptly point out that the court, in drafting the description of the imputed act in the judgment, is free to use one of two methods of scaling down the essence of the criminal offence. The first is repetition, that is quoting the statutory elements, followed by words such as 'and thus' or 'in particular', and then expressions scaling down the elements by description corresponding to the findings. The other is substitution, that is not quoting the statutory elements and instead pointing directly to the findings of fact.¹²

The requirement of the specific description of the crime does not, therefore, always necessitate the use of the wording of the statute establishing the offence. The conduct may be described freely, through the findings of fact, so as to point toward

⁸ The Supreme Court judgment of 28 March 2019, IV KK 198/18, LEX No. 2642724.

⁹ J. Kochanowski, *Przestępstwa i wykroczenia drogowe. Komentarz*, Warszawa 1991, p. 232; K. Buchała, *Przestępstwa i wykroczenia przeciwko bezpieczeństwu w komunikacji drogowej. Komentarz*, Bydgoszcz 1997, p. 147.

¹⁰ The Supreme Court judgments: of 19 October 1976, IV Kw 273/76, OSNKW 1976, No. 12, item 152; of 6 October 1976, Rw 327/76, OSNKW 1976, No. 12, item 154; of 3 December 1985, V KRN 929/85, OSNPG 1986, No. 6, item 75; the Supreme Court ruling of 29 April 1997, V KKN 255/96, OSNKW 1997, No. 7–8, item 60; the Supreme Court judgments: of 21 October 1973, KRN 300/73, Biuletyn Sądu Najwyższego 1973, No. 12, item 200; of 15 June 1992, II KRN 78/92; of 1 December 2005, V KK 353/05, Prokuratura i Prawo 4, 2006, item 6; judgment of the Court of Appeal in Lublin of 18 March 2008, II AKA 56/08, Krakowskie Zeszyty Sądowe 6, 2008, item 56.

¹¹ Consolidated text, Dz.U. 2020, item 110, as amended; hereinafter also LRT.

¹² S. Waltoś, *Akt oskarżenia w procesie karnym*, Warszawa 1963, pp. 60–61; A. Zachuta, *Opis i kwalifikacja prawna czynu z uwzględnieniem sprawczych odmian przestępnego współdziałania*, Prokuratura i Prawo 1, 2005, p. 52; the Supreme Court ruling of 5 February 2019, V KK 599/18, LEX No. 2616229; judgment of the Court of Appeal in Lublin of 12 September 2017, II AKA 178/17, LEX No. 2396878.

the fulfilment of the relevant element or elements of the crime. The meaning of the expressions used should adequately fulfil the meaning of the respective element.¹³

The Supreme Court decisions are also consistent on the fact that Article 413 § 2 CPC defining the structure of a conviction does not include a requirement of citing *expressis verbis* the statutory language describing all of the elements of the criminal offence (Article 413 § 2(1) CPC). What is required, on the other hand, is for the description of the imputed act to be specific and for the legal classification to result from the application of the findings of fact to the appropriate provision of substantive law. When considering the stylistic aspects of Article 413 § 2(1) CPC, the Supreme Court correctly observed that both facets of the provision were of equal standing, in the sense that the contents of the description of the imputed act should correspond to the semantic contents (meaning) of all of the elements defining the offence type, and each element of the offence type should be scaled down in the description of the act. That balance between the verbal definition of the act and its legal classification does not require a quotation from the words with which the statute defines the various elements of the offence type. This is because the elements delineate the boundaries of the criminalised sphere of conduct in an abstract way. The goal of the criminal proceedings at the trial stage, by contrast, is to decide whether in the imputed act the defendant has fulfilled each of the synthetically encapsulated elements of the specific offence type, and if they have, then what that fulfilment has consisted in.¹⁴ Hence, even the omission of the statutory definition of an element of the offence in the description of the imputed act poses no obstacle to concluding that the act fulfils the elements of a specific criminal offence, as long as the description fits in the boundaries of the expressions used by the provision of substantive law to define the elements.

Normative rules of traffic are defined by the Law on road traffic and regulations enacted thereunder. They are of decisive importance to ensuring the traffic is safe. The Supreme Court defined them as, 'rules contained in the provisions specifying the order of movement in traffic routes and conduct in typical traffic situations or expressed by such signage, lighting and signal systems as may be in place.'¹⁵ They constitute an open set of general and special norms in the nature of guarantees, defining the safety conditions of the traffic, compliance with which either precludes or significantly diminished the danger of the traffic.¹⁶ Normative regulations

¹³ T. Grzegorzczuk, *Kodeks postępowania karnego. Komentarz*, Warszawa 2014, p. 1363.

¹⁴ The Supreme Court judgments: of 2 July 2015, V KK 138/15, OSNKW 2015, No. 11, item 97; of 26 November 2014, II KK 1414/14, OSNKW 2015, No. 5, item 42; of 3 December 2015, II KK 283/15, LEX No. 1938677; of 24 June 2013, V KK 435/12, LEX No. 1331400; the Supreme Court rulings: of 5 December 2013, II KK 212/13, OSNKW 2014, No. 5, item 38; of 4 September 2014, V KK 156/14, LEX No. 1532786; of 19 May 2015, V KK 53/15, OSNKW 2015, No. 10, item 84; of 20 March 2014, III KK 416/13, LEX No. 1444607; of 20 March 2014, III KK 416/13, LEX No. 1444607.

¹⁵ Resolution of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKW 1975, No. 3–4, item 33.

¹⁶ W. Radecki, [in:] M. Bojarski, W. Radecki, *Kodeks wykroczeń. Komentarz*, Warszawa 2016, p. 699; A. Bachrach, *Przestępstwa i wykroczenia drogowe w nowym prawie polskim*, Warszawa 1974, p. 288.

establish such rules of traffic participation that concern the most frequent situations and best protect the safety of the traffic.¹⁷

In the literature one can encounter the (correct) view that it is necessary to distinguish the general and special rules of safety in road traffic. The former category concerns, in principle, all traffic situations. These include: caution (Article 3 LRT), special caution (Article 2(22) LRT), limited trust (Article 4 LRT), and safe speed (Article 19 LRT). Writers tend to emphasize that the principles of caution and limited trust are in the nature of ‘corrective principles’, applied as a last resort in the absence of a special norm binding on the traffic participant.¹⁸ The latter category concerns the enumerated range of conduct and manoeuvres. Its various individual rules are triggered only in a specific road situation and define the appropriate course of action. Those include: rules on pedestrian traffic (Articles 11–15 LRT); rules on vehicle traffic (Articles 16–34 LRT); transhumance of animals (Articles 35–37 LRT); rules for joining the traffic (Articles 17–18a LRT); rules for changing the direction or lane (Article 22 LRT); evading, avoiding, withdrawing (Article 23 LRT); overtaking (Article 24 LRT); directional intersections (Article 25–28) and more.

It remains a current view of the Supreme Court that the contents of normative regulations do not exhaust the universe of rules of which the *ratio* consists in the protection of life, health and property from traffic incidents,¹⁹ and that safety rules in road traffic must also include, ‘rules not specifically codified but arising from the aforesaid provisions and the essence of traffic safety, which must apply whenever there is no specific provision.’²⁰ The literature also observes that both in those cases in which there are no formalised standards for cautious conduct and those wherein no such formalisation exists, conduct consistent with the principles of caution relies also on the observance of extra-legal rules arising from the essence of safety in the relevant field.²¹ The source of those is knowledge and life experience, which need not be universally applicable or require expert knowledge.²² That is a correct view. It would be impossible to predefine all possible traffic situations. Hence, they cannot be boiled down to a single abstract rule. Conduct in such situations must be evaluated against general principles arising from the necessity of cautious and judicious behaviour,²³ i.e. the principles arising directly from the general provisions and from the variability of the traffic with its dynamics.²⁴ The overarching duty

¹⁷ Cz. Jaroszek, *Naruszenie zasad bezpieczeństwa jako znamię przestępstwa określonego w art. 145 k.k. w świetle nowego prawa o ruchu drogowym*, *Problemy Praworządności* 8–9, 1983, p. 51.

¹⁸ P. Konopka, *Rażące naruszenie zasad bezpieczeństwa pojęciem pomocniczym dla przypisania skutku w art. 177 k.k.*, *Czasopismo Prawa Karnego i Nauk Penalnych* 3, 2010, p. 35.

¹⁹ The Supreme Court judgment of 12 June 1973, V KRN 187/73; see in R.A. Stefański, *Przestępstwa i wykroczenia drogowe w orzecznictwie Sądu Najwyższego*, Warszawa 1997, item 248.

²⁰ Resolution of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKW 1975, No. 3–4, item 33.

²¹ M. Dąbrowska-Kardas, P. Kardas, *Przegląd orzecznictwa z zakresu części ogólnej prawa karnego materialnego (za rok 1995)*, *Przegląd Sądowy* 11–12, 1996, p. 129.

²² The Supreme Court ruling of 12 July 1958, II CR 1214/57, OSPiKA 1959, No. 11, item 288.

²³ K. Wagner, *Przestępstwa przeciwko bezpieczeństwu powszechnemu i przeciwko bezpieczeństwu w ruchu lądowym, wodnym i powietrznym*, Warszawa 1970, p. 21.

²⁴ Resolution of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKW 1975, No. 3–4, item 33.

of every participant in the traffic is to act in accordance with not only legally established rules but also equally to follow common sense²⁵ and general prudence, and respect the safety of others.²⁶ These are the criteria formulating the essence of the duty of care ('the essence of safety') in road traffic and must, as the Supreme Court underlined, be followed even in the absence of a legal provision.²⁷

Cautionary principles, and this category includes the rules of safety in land traffic, should not be focused on the execution of any specific behaviour but on the achievement of the purpose that is safeguarding the protected interest.²⁸ In the realm of the provisions of the Law on road traffic, this principle is enunciated by the principle of base caution, which imposes a duty to avoid all such action as might endanger the safety or order in road traffic, hamper the traffic or infringe on the public peace or order or expose anyone to harm in connection with the traffic (Article 3 para. 1 LRT), stipulating the 'essence of safety in road traffic'.

In the case at hand the court of first instance – having accepted and followed the prosecutor's entire description of the act – copied the phrase according to which the defendant, among other things, 'in a straight section of the road, for reasons undetermined, drove over to the roadside and lost control of the vehicle, allowing it to crash into a tree.' The appellant-in-cassation had some doubts about the expression 'for reasons undetermined'. *Prima facie*, that part of the description can indeed cause a doubt that the conduct contains the elements of a culpable violation of the rules of traffic safety. Court decisions point out that whether the driver proceeded with caution and care cannot be decided solely by the fact that a traffic incident happened.²⁹ However, the disputed description also contains other markers of a lack of care in road traffic, namely the fact of driving over to the roadside and losing control of the vehicle, which led to crashing into the tree.

Indisputably, the driver of a vehicle has a duty to proceed with caution so as to guarantee that they can control its movement and direction freely. While the provisions of the Law on road traffic do not define such a requirement in express language, this course of action wholly fits in the concept – imposed on any traffic participant – of avoiding any action that might endanger the traffic safety (Article 3 para. 1 LRT). The concept of 'controlling the vehicle' also surfaces in Article 19 para. 1 LRT. To narrow down the scope of the duty incumbent on the driver of a car moving along a straight section of a national road, it indisputably must include keeping the vehicle within the intended directional lane, not veering off the road in an uncontrolled manner, and ultimately not allowing a collision to happen with

²⁵ The Supreme Court judgment of 31 January 1949, K 1068/48, OSN 1949, No. 1, item 10.

²⁶ G. Wiciński, *Zasady bezpieczeństwa w ruchu drogowym*, *Wojskowy Przegląd Prawniczy* 2, 1989, p. 181.

²⁷ The Supreme Court judgment of 30 May 1995, III KKN 20/95, OSNKGW 1992, No. 11–12, item 84.

²⁸ M. Rodzynkiewicz, *Określenie umyślności i nieumyślności w projekcie kodeksu karnego*, *Przegląd Sądowy* 5, 1995, p. 50.

²⁹ Resolution of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKGW 1975, No. 3–4, item 33; the Supreme Court judgments: of 16 June 1982, V KRN 171/82, OSNCP 1982, No. 11, item 146; of 17 January 1987, V KRN 474/86, OSNPG 1988, No. 3, item 29; of 17 November 1998, II KKN 73/97; see in R.A. Stefański, *Kodeks karny. Orzecznictwo. Piśmiennictwo*, Kraków 2000, p. 187.

another participant of the traffic or a person present in the road or nearby, or an obstacle (another vehicle, technical facilities for traffic safety and order, or a tree growing near the road). The obligations falling within the scope of this range are of primary importance to ensure the safe movement of vehicles and use of the road in general, and a duty to adapt rests primarily on the driver as a person making use of a thing which is unsafe by design. For such is the nature of a vehicle moving in the traffic with a speed that is typical outside built-up areas.

Hence, the trial court's expression 'for reasons undetermined', as read in the context of further circumstances highlighting the defendant's conduct, did not point toward any failure to determine the safety rule that was violated but only of the specific reason why the driver acted in a manner that was unsafe and manifestly incompatible with the prescribed manner of driving the vehicle in what was an uncomplicated traffic situation. This indisputably unfortunate expression ought to be understood as referring to any undetermined external cause beyond the driver's control, such as might justify a sudden manoeuvre. Taking into account the foregoing remarks concerning the careful conduct of a vehicle and the fact that the movement and direction of the vehicle are, by definition, imposed only by the driver, it is difficult to assume *a priori* that veering off the road and hitting an obstacle always has an external cause and that the failure to determine that cause in the proceedings should provide sufficient grounds to conclude that the driver's tactics and technique were correct. In other words, veering off the lane and then the road and hitting the tree, when such a chain of events was not caused or accompanied by any external circumstances, such as the conduct of a different participant of the traffic (e.g. a passenger), an animal crossing the road or the vehicle's poor technical condition, must necessarily draw attention to the driver's failure as the person, in principle, solely responsible for the vehicle's movement and direction. The driver ought to drive on the lane, the latter being the element of the road intended for vehicle traffic (Article 2(6) LRT). Hence, the driver is liable for having culpably left that area. Veering off the road defeats the presumption that the driver conducted the vehicle in a careful and proper manner; hence, the exculpation of such a driver would only enter the picture in the event of finding causes justifying them in being outside the lane, and thus external causes of danger, which in this case did not take place.

In summary, the description, provided in the dispositive part of the conviction, of the criminal traffic incident as an offence committed in consequence of the violation of the general rules of traffic safety need not solely be based on terminology borrowed straight from the Law on road traffic, since Article 413 § 2(1) CPC establishes no such requirement. In certain cases, such a limitation would fail to sufficiently highlight the liability-relevant details of the perpetrator's conduct, especially in the area of the principle of base caution (the essence of traffic safety). The primary significance in the context of the duty arising from Article 413 § 2(1) CPC must belong to the faithful reconstruction of the description of the event, though free of expressions potentially having more than one meaning. The criterion of violation of the general cautionary principle (Article 3 para. 1 LRT) is also met by culpable, not externally caused, loss of control of the vehicle combined with uncontrolled veering off the road and hitting an obstacle found in the road's immediate vicinity.

BIBLIOGRAPHY

- Bachrach A., *Przestępstwa i wykroczenia drogowe w nowym prawie polskim*, Warszawa 1974.
- Bojarski M., Radecki W., *Kodeks wykroczeń. Komentarz*, Warszawa 2016.
- Buchała K., *Przestępstwa i wykroczenia przeciwko bezpieczeństwu w komunikacji drogowej. Komentarz*, Bydgoszcz 1997.
- Dąbrowska-Kardas M., Kardas P., *Przegląd orzecznictwa z zakresu części ogólnej prawa karnego materialnego (za rok 1995)*, *Przegląd Sądowy* 11–12, 1996.
- Grzegorzczak T., *Kodeks postępowania karnego. Komentarz*, Warszawa 2014.
- Jaroszek Cz., *Naruszenie zasad bezpieczeństwa jako znamię przestępstwa określonego w art. 145 k.k. w świetle nowego prawa o ruchu drogowym*, *Problemy Praworządności* 8–9, 1983.
- Kochanowski J., *Przestępstwa i wykroczenia drogowe. Komentarz*, Warszawa 1991.
- Konopka P., *Rażące naruszenie zasad bezpieczeństwa pojęciem pomocniczym dla przypisania skutku w art. 177 k.k.*, *Czasopismo Prawa Karnego i Nauk Penalnych* 3, 2010.
- Rodzinkiewicz M., *Określenie umyślności i nieumyślności w projekcie kodeksu karnego*, *Przegląd Sądowy* 5, 1995.
- Stefański R.A., *Przestępstwa i wykroczenia drogowe w orzecznictwie Sądu Najwyższego*, Warszawa 1997.
- Stefański R.A., *Kodeks karny. Orzecznictwo. Piśmiennictwo*, Kraków 2000.
- Wagner K., *Przestępstwa przeciwko bezpieczeństwu powszechnemu i przeciwko bezpieczeństwu w ruchu lądowym, wodnym i powietrznym*, Warszawa 1970.
- Waltoś S., *Akt oskarżenia w procesie karnym*, Warszawa 1963.
- Wiciński G., *Zasady bezpieczeństwa w ruchu drogowym*, *Wojskowy Przegląd Prawniczy* 2, 1989.
- Zachuta A., *Opis i kwalifikacja prawna czynu z uwzględnieniem sprawczych odmian przestępnego współdziałania*, *Prokuratura i Prawo* 1, 2005.

GLOSS ON THE SUPREME COURT RULING OF 13 JUNE 2019,
III KK 280/18

Summary

The gloss refers to the problem of the correct and accurate description of the act fulfilling the elements of the criminal offence of traffic incident (Article 177 § 1 or § 2 of the Criminal Code) imputed to the defendant in the conviction (Article 413 § 2(1) of the Criminal Procedure Code). The author, elaborating on the arguments supplied by the Supreme Court, takes a position in support of the admissibility of an equivalent phrasing that defines the 'violation of safety rules in land traffic', provided that its semantic value corresponds to the statutory element. The author also notes that in specific cases the description of an act based solely on expressions taken from the statutory language could even make it more difficult to present an accurate picture of the perpetrator's conduct.

Keywords: criminal procedure, substantive criminal law, conviction, description of the act, traffic incident, safety rules in land traffic

GLOSA DO POSTANOWIENIA SĄDU NAJWYŻSZEGO Z DNIA 13 CZERWCA 2019 R., III KK 280/18

Streszczenie

Glosa dotyczy problematyki prawidłowego, dokładnego opisu czynu wyczerpującego znamiona przestępstwa wypadku drogowego (art. 177 § 1 lub § 2 k.k.), przypisywanego oskarżonemu w wyroku skazującym (art. 413 § 2 pkt 1 k.p.k.). Autor, rozbudowując argumentację przedstawioną przez Sąd Najwyższy, aprobuje możliwość posłużenia się w opisie czynu sformułowaniami równoznacznymi, potwierdzającymi „naruszenie zasad bezpieczeństwa w ruchu lądowym”, o ile ich zawartość semantyczna odpowiada temu znamieniu ustawowemu. Autor wykazuje również, że w szczególnych przypadkach konstrukcja opisu czynu opierająca się wyłącznie na określeniach ustawowych może wręcz utrudniać przedstawienie rzeczowego obrazu zachowania sprawcy.

Słowa kluczowe: postępowanie karne, prawo karne materialne, wyrok skazujący, opis czynu, wypadek drogowy, zasady bezpieczeństwa w ruchu lądowym

COMENTARIO DE AUTO DEL TRIBUNAL SUPREMO DE 13 DE JUNIO DE 2019, III KK 280/18

Resumen

El comentario versa sobre la problemática de descripción correcta y detallada de delito de accidente de tráfico (art. 177 § 1 o § 2 del código penal), imputado al acusado en la sentencia condenatoria (art. 413 § 2 punto 1 del código de proceso penal). El autor desarrolla la argumentación del Tribunal Supremo y acepta la posibilidad de utilizar en la descripción de delito las fórmulas sinónimas que confirmen “la infracción de reglas de seguridad en el tráfico vial”, siempre que su contenido semántico equivalga a este elemento legal de delito. Señala también que en casos particulares la construcción de descripción de hecho que se basa exclusivamente en términos legales puede dificultar el juicio del comportamiento real del autor de delito.

Palabras claves: proceso penal, derecho penal, sentencia condenatoria, descripción de hecho, accidente de tráfico, reglas de seguridad en el tráfico vial

КОММЕНТАРИЙ К ПОСТАНОВЛЕНИЮ ВЕРХОВНОГО СУДА № III KK 280/18 ОТ 13 ИЮНЯ 2019 ГОДА

Аннотация

Комментарий касается вопроса о надлежащем и точном описании в обвинительном приговоре (ст. 413 § 2 п. 1 УПК) деяния, исчерпывающего признаки преступления, состоящего в совершении дорожно-транспортного происшествия (ст. 177 § 1 или § 2 УК). Развивая аргументацию, приводимую Верховным судом, автор статьи поддерживает точку зрения, что при описании преступного деяния можно использовать синонимичные слова и выражения, подтверждающие «нарушение правил

безопасности дорожного движения», при условии, что их смысловое содержание соответствует законодательному определению данного признака преступления. Кроме того, в статье показано, что в некоторых случаях описание деяния, основанное исключительно на формулировках, содержащихся в законе, не позволяет представить подлинную картину поведения преступника.

Ключевые слова: уголовное производство; материальное уголовное право; обвинительный приговор; описание деяния; дорожно-транспортное происшествие; правила безопасности дорожного движения

GLOSSE ZUM BESCHLUSS DES SĄD NAJWYŻSZY VOM 13. JUNI 2019 R., AKTENZEICHEN: III KK 280/18

Zusammenfassung

Mit den Anmerkungen wird auf die Problematik der korrekten und genauen Würdigung einer strafbaren Handlung eingegangen, die die Tatbestandsmerkmale eines Verkehrsunfalldelikts (Artikel 177 § 1 oder § 2 des polnischen Strafgesetzbuches) aufweist, das dem Beschuldigten bei der Verurteilung zur Last gelegt wird (Artikel 413 § 2 Ziffer 1 der polnischen Strafprozessordnung). Der Autor spricht sich – unter Erweiterung der vom Sąd Najwyższy, der höchsten Instanz in Zivil- und Strafsachen in der Republik Polen, vorgetragenen Argumentation – für die Möglichkeit aus, bei der Würdigung einer strafbaren Handlung zur Untermauerung eines „Verstoßes gegen die Sicherheitsregeln im Straßenverkehr“ synonyme Formulierungen zu verwenden, sofern deren semantischer Gehalt diesem gesetzlichen Tatbestandsmerkmal entspricht. Er weist außerdem darauf hin, dass eine Konstruktion der Würdigung der strafbaren Handlung, die sich ausschließlich auf die gesetzlichen Begriffe stützt, es in besonderen Fällen sogar erschweren kann, das tatsächliche Bild des Verhaltens des Täters wiederzugeben.

Schlüsselwörter: Strafverfahren, materielles Strafrecht, Verurteilung, Würdigung des Sachverhalts, Verkehrsunfall, Sicherheitsregeln im Straßenverkehr

GLOSE DE L'ARRÊT DE LA COUR SUPRÊME DU 13 JUIN 2019, III KK 280/18

Résumé

Le commentaire porte sur la question d'une description correcte et précise d'un acte qui comporte les éléments constitutifs d'un crime d'accident de la route (article 177 § 1 ou § 2 du Code), attribué à l'accusé dans la condamnation (article 413 § 2 point 1 du Code de procédure pénale polonais). En développant les arguments présentés par la Cour suprême, l'auteur approuve la possibilité d'utiliser des expressions équivalentes dans la description de l'acte, qui confirment «la violation des règles de sécurité dans la circulation terrestre», à condition que leur contenu sémantique corresponde à cet élément constitutif prévu par la loi. Il montre également que dans des cas particuliers, la construction de la description de l'infraction fondée uniquement sur des conditions légales peut même rendre difficile la présentation de l'image réelle du comportement de l'auteur.

Mots-clés: procédure pénale, droit pénal matériel, condamnation, description de l'acte, accident de la route, règles de sécurité dans la circulation terrestre

COMMENTO ALL'ORDINANZA DELLA CORTE SUPREMA DEL 13 GIUGNO
2019, III KK 280/18

Sintesi

Il commento riguarda la questione della corretta e precisa descrizione dell'atto che costituisce un reato di incidente stradale (art. 177 § 1 o § 2 del Codice penale), attribuito all'imputato in una sentenza di condanna (art. 413 § 2 punto 1 del Codice di procedura penale). L'autore, sviluppando l'argomentazione presentata dalla Corte Suprema, approva la possibilità di utilizzare nella descrizione dell'atto formulazioni equivalenti, che confermano la "violazione delle norme di sicurezza della circolazione stradale" nella misura in cui il loro contenuto semantico corrisponda agli elementi costitutivi giuridici. Indica inoltre che in casi particolari la struttura della descrizione dell'atto basata esclusivamente sulle definizioni giuridiche può addirittura ostacolare la presentazione del quadro reale del comportamento dell'autore del reato.

Parole chiave: procedimento penale, diritto penale sostanziale, sentenza di condanna, descrizione dell'atto, incidente stradale, norme di sicurezza della circolazione stradale

Cytuj jako:

Dąbrowski J.A., *Gloss on the Supreme Court ruling of 13 June 2019, III KK 280/18* [Glosa do postanowienia Sądu Najwyższego z dnia 13 czerwca 2019 r., III KK 280/18], „Ius Novum” 2020 (14) nr 4, s. 205–215. DOI: 10.26399/iusnovum.v14.4.2020.44/j.a.dabrowski

Cite as:

Dąbrowski, J.A. (2020) 'Gloss on the Supreme Court ruling of 13 June 2019, III KK 280/18'. *Ius Novum* (Vol. 14) 4, 205–215. DOI: 10.26399/iusnovum.v14.4.2020.44/j.a.dabrowski