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**Summary of the doctoral dissertation**  
**entitled *The effects of a decision issued in the matter of legal incapacitation***

The institution of incapacitation constitutes a significant interference in the sphere of personal rights of an individual and affects fundamental human rights in the area of free management of one's own conduct. Its most important goal should therefore be to protect the interests of the person whose application for incapacitation concerns. This institution was created for people who, due to mental illness, mental retardation or other types of mental disorders, as well as alcoholism or drug addiction, are unable to independently manage their own conduct and need support in this area.

It is increasingly indicated in the doctrine and case law that the restrictions related to the institution of legal incapacitation in its current form are disproportionate to the actual legitimate needs and should be replaced with more flexible solutions that are tailored to the situation of a given person. In addition, it should be noted that for such an institution to function properly, consistency of regulations is necessary in various areas of law, in particular substantive and procedural civil law and family and guardianship law. Moreover, due to the interdisciplinary nature of the issues under consideration, it would be advisable to delve into issues related to such fields of science as medicine, especially in the field of psychiatry and psychology, when designing future solutions. The issue of replacing the currently applicable structure of legal incapacitation with another institution that would more fully fulfil its basic task related to the protection of the interests of the person to whom it has been applied for many years is also postulated by the Commissioner for Human Rights, indicating that the future structure should more fully implement the directives of dignity, freedom and equal treatment of each person. In 2018, he joined the proceedings before the Constitutional Tribunal on a constitutional complaint (SK 23/18), in which he presented a position on the inconsistency with the Constitution of the

Republic of Poland of the institution of incapacitation in its current form. As mentioned, this institution in its current regulations entails many restrictions in the sphere of exercising fundamental human rights and freedoms without a broader individualization of the situation of a given person. With the exception of agreements concluded in minor everyday matters, a completely incapacitated person cannot act independently in legal and economic transactions, and all their actions must be carried out through a guardian. Additionally, it should be emphasized that despite the rank and scale of the limitations of the incapacitated person in social and legal life, the court applies them indefinitely and without periodic review of the justification for its application. The currently applicable regulations of the institution of incapacitation are therefore directly contrary to the UN Convention on the Protection of the Rights of Persons with Disabilities ratified by Poland. It should be pointed out that full legal capacity is a constitutional or statutory condition of decision-making autonomy in many areas of life. In turn, incapacitation is of fundamental importance for this autonomy, because it either excludes or limits it. As indicated in its ruling by the Constitutional Tribunal, this assessment is not changed by the fact that some property rights of an incapacitated person may be exercised by their guardian (curator), obliged to act for the good of the person under their care, to listen to them and take into account their wishes in more important matters, who is subject to supervision by the court. The actions of legal representatives are not identical to the actions of the person concerned themselves.

The final conclusions of the doctoral dissertation are a summary of the analysis of the institution of incapacitation. These considerations are focused on key areas that are of fundamental importance for both doctrine and court practice. They constitute a response to the theses presented in the introduction, taking into account procedural statistics and proposals for legislative changes.

The final part of the work took into account the draft of statutory changes published in June 2024 leading to the fulfillment of the postulates of the doctrine and the elimination of the institution of incapacitation with the planned entry into force in the second quarter of 2025, indicating that the proposed changes go in an unequivocally good direction, also postulated in this work, i.e. maximum empowerment of disabled people and providing them with support in making decisions. Through these changes, the Polish state complies with the applicable international Conventions related to the rights of disabled people.

9.09.2024. *Charles Farkas*