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Summary of PhD thesis “Right to a fair trial in accordance with Article 6 of the Convention on Human Rights as applied to medical court cases”

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The main subject of this dissertation is the right to a fair trial enshrined in the Convention on Human Rights as applied to medical court cases. At the core of Article 6 of the Convention is the right of an individual to a trial by an independent and impartial court with transparent and prompt judicial determinations.

Legal scholarship as well as international and Polish case law confirm the right to a fair trial and the upholding of this standard in administrative, civil and criminal cases. However, thus far it has not been examined whether this standard is being upheld in professional liability cases of physicians and dentists, which is the main topic of this dissertation. In selecting this dissertation topic, I have used my observations and professional experience from the Council of the Medical Chamber whose role is to exercise care over the proper performance of such professions.

The dissertation is divided into four chapters. Chapter 1 introduces the concept of the right to a fair trial. Specifically, it discusses the guarantees it provides, its genesis, and further analyses elements required for a fair trial to take place. I include a discussion of criteria put forward by the European Court of Human Rights (ECHR), both for criminal and civil cases. Further, I discuss the guarantees and proceeding rules according to the criteria defined by Convention, i.e. *explicite* and *implicite* criteria based on legal scholarship and the vast case law of the ECHR.

The second chapter discusses proceedings at medical courts. I start by introducing the legal basis governing the Council of the Medical Chamber. Further, I discuss its main objectives and define the concept and scope of professional liability. Next, I outline all entities involved in professional liability cases, criteria which define which entity is involved, as well as rules and processes governing the Council. Then, I discuss the types of penalties at the disposal of

medical courts and the appeals procedures available to parties to the process. Further, I also outline the mediation process whose goal is to reach agreement between all parties.

In Chapter 4, I focus on the influence of ECHR case law on proceedings in medical courts. Specifically, I base my observations on the current legal provisions, court practices and the vast record of disciplinary proceedings of the Lower Silesia Medical Chamber in Wroclaw. I highlight how the guarantees enshrined in Article 6 of the Convention are applied in disciplinary proceedings of medical professionals. Further, I describe the legal basis which creates the foundation for an independent and impartial court, the right to transparent and prompt proceedings, and how the principle of equal treatment of both sides is respected in practice.

In the conclusion, I confirm that the right to a fair trial is respected in professional liability cases of physicians and dentists, both with regards to the scope and in line with ECHR's reading of laws governing such cases.

I also note that despite the ECHR's categorization of such cases as civil cases, the guarantees provided include those applied in criminal cases due to the treatment of medical professional liability cases as *quasi-criminal*. This characterization is based on the Polish law regulating medical chambers from 2 December 2009 and is complemented by the Code of Criminal Procedure from 6 June 1997, the latter of which is used for *quasi-criminal*, unregulated cases.

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