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Summary of doctoral thesis entitled “*Public law status of professions of public trust*”

My doctoral thesis is a discussion of the issues related to the concept of ‘professions of public trust’. Firstly, it discusses the issue of whether professions of public trust exist. Secondly, it examines whether the principles of a democratic state of law permit and justify legislators to regulate the rules under which such professions are established and practised. Thirdly, it discusses the elements of professional practice that should be subject to such regulation so as to ensure the protection of individual interests.

Regardless of the legal system in place, the degree of regulation, or the stage of development of the civilization, for some of the professions playing a special role in a given society, a characteristic feature was the connection between the object of their activities and interests of their clients. This led to those practising such professions being deemed as particularly worthy of trust, to a degree far above individuals involved in typical market relationships. Such trust was also applicable when certain specific public duties were entrusted to the given practitioners. This led to the rules under which those professions were practised being subject to a specific legal regime.

The first chapter of this paper examines the origins of the public law status of professions of public trust, and the circumstances in which a category of professions so distinguished by the legislator first appeared in Polish constitutionalism.

The second chapter provides a definition of the concept of the ‘profession of public trust’ and establishes the scope thereof. The second chapter also provides an answer to the question of the meaning of ‘in which the public repose confidence’, since the term is used in Article 17 par. 1 of the Constitution of the Republic of Poland. The second chapter also attempts to determine the objective scope of the concept of the profession of public trust.

The third chapter analyses the constitutional and legal status of professions of public trust, as well as their self-governance. An important part of that analysis is assessment of the relationship between Article 17 par. 1 and Articles 20 and 65 of the Constitution. This chapter further

discusses the permissibility of the legislator formulating unclear prerequisites for undertaking and performing a profession, and the rules on how those prerequisites should be interpreted. It also discusses the purpose and justification for creating self-governments of professions of public trust. The third chapter also examines the clash between the public interest and private interests of persons practising professions of public trust. It also discusses the protection of the public interest, and its limits.

In the fourth chapter of the work an analysis is made of the rules for undertaking and performing a profession of public trust in the context of freedom of economic activity, in particular of the possibility to select the form and location of practising a profession of public trust. There is also a discussion on the role of professional ethics and the topic of deontology is covered, including the legal significance of deontological codes. Another issue related to professional deontology is conflicts of interests. An analysis is also made of such issues as the right to refuse to render services, the right to strike, the rules for determining the remuneration of persons working in a profession of public trust, and the permissible scope of the freedom to set amounts of remuneration. A further issue discussed is that of entitlement to and the scope of immunity of persons practising a profession of public trust. When considering the particular relationship between a person practising a profession of public trust and a beneficiary, one needs to analyse the justifiability of the functioning of professional secrecy. Such considerations take account of issues related to cooperating with state intelligence agencies.

Finally, the work examines the public law status of the profession of public trust in the context of the rules of liability, both civil and disciplinary, for persons practising such a profession.

