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The Role of the Social Factor in Adjudication in Polish Criminal Procedure

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Summary

The topic of this doctoral dissertation is the issue of participation of the social factor in adjudicating in Polish criminal procedure, which implies the participation of citizens – lay judges – in criminal trial. Their presence and the role in process differs from other examples of the principle of the social factor in the trial. During the adjudicating phase (during the trial, deliberations, and voting), only lay judges can participate.

The legal basis for public participation is based on the Constitution of the Republic of Poland, the Act on the System of Common Courts, and the Code of Criminal Procedure. Due to the general constitutional basis of the Article 182 of the Constitution of the Republic of Poland (the blanket rule), public participation is possible in a mixed form (lay judges) and as jury. However, it is unacceptable for justices of the peace to administer justice alone, as the Constitution of the Republic of Poland stipulates "participation," meaning adjudicating with others. However, it does not define minimum standards for the participation of the social factor in the process, which made it possible to limit it in both criminal and civil cases.

The dissertation consists of six chapters. The structure of the work focuses primarily on two research methods – comparative method and formal-dogmatic method.

The first chapter is based on the historical method. It presents the origins of the social factor in Polish lands from the beginning of the state's existence, through the period of partitions, the interwar period, the period of the Polish People's Republic, and up to the present day, which predates the currently applicable regulations. The aim of this chapter was to search for the reasons that led to the abandonment of the participation of lay judges in district courts.

The second chapter of the dissertation present a comparative method, analysing the legal systems of European countries (the United Kingdom of Great Britain and Northern Ireland, Germany and France) and the United States of America. The purpose of this chapter was to explore constructs from foreign law regarding the participation of the social factor in criminal proceedings that could be incorporated into the Polish law.

The third chapter presents formal-dogmatic research. The participation of the social factor in Polish law (in terms of procedures) is based on the provisions of the Code of Criminal Procedure and the broader sense of civil procedure (family law and labor law). The legal basis for this construct also includes provisions of the Constitution of the Republic of Poland and other systemic regulations. The aim of this chapter was to provide a comprehensive analysis of regulations concerning social participation in criminal proceedings, with a focus on new

provisions concerning the immutability of adjudicating panels, the possibility of replacing a single member of the panel and the preliminary deliberation. The analysis of domestic regulations has provided a basis for developing a model of public participation in adjudication.

The fourth chapter conducts formal-dogmatic research on legislative proposals regarding the institution of justice of the peace. This chapter presents the assumptions of the proposed regulations as well as the controversies and criticism related to its incorporation into the Polish legal system.

The fifth chapter presents an empirical method - the results of research, including interviews with representatives of the justice system (judges and lay judges) regarding the legal awareness of citizens administering justice and the lawyers' perspective of the society.

The sixth chapter of the doctoral dissertation attempts to introduce a model of the participation of the social factor in adjudicating in Polish criminal proceedings. This chapter is a synthesis of the remaining studies and a summary.