

## **Summary of the doctoral dissertation entitled "Issues Related to the Application of Temporary Detention in Poland: A Case Study of the Jurisprudence of the European Court of Human Rights."**

The subject of the study is the assessment of domestic legal regulations regarding temporary detention and the practice of its application in terms of compliance with the standards set by the European Court of Human Rights. The objective of the study is to propose solutions that would allow for the elimination of violations associated with the use of temporary detention in Poland.

Guided by the 30-year membership of Poland in the Council of Europe and the recognition of the jurisdiction of the Court, the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms regarding temporary detention were analyzed. This included examining all judgments and decisions issued during this period that found violations against Poland, totaling several hundred rulings. Additionally, significant precedents and standards established by judgments against other countries were considered. On the other hand, the analysis also encompassed the applicable national criminal procedure provisions during this period, taking into account any changes made, as well as the practice of applying temporary detentions in Poland.

The thesis consists of an Introduction and four substantive chapters, of which the first two are dedicated to the provisions of the Convention, the third to the statutory regulations regarding temporary detention, and the fourth to the analysis of the identified violations by the Court. The argumentation concludes with conclusions, which include an analysis and *de lege lata* and *de lege ferenda* recommendations.

Chapter One is dedicated to assessing the effectiveness of implementing the Convention into the Polish legal system. The considerations in this regard are preceded by an overview of the origins, emergence, and development of human rights concepts, the context of adopting the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as its significance for shaping the international legal order immediately after World War II and in contemporary times. This chapter presents the complexity of the process of aligning Polish law and its application with the standards of the Council of Europe, which translates into a characteristic structure of the identified violations against Poland, with repetitive and systemic violations being predominant. This part of the thesis also provides a critique of the common view that the number of violations identified against Poland can be used as evidence of its ineffective implementation. The analysis of various aspects that constitute this process, particularly the "successes" in terms of executing judgments, challenges such views. Special

attention in this chapter is devoted to considerations related to the systemic problem associated with temporary detention, analyzing it in the context of other issues and seeking its origins.

Within Chapter Two and Three, a comparative analysis was conducted between the Convention system and the domestic legal system, which is the subject of this study. The framework of Chapter Two focuses on presenting the interpretation provided for in Article 5 of the Convention, which guarantees the right to liberty and security, as well as the applicable standards set by the Court. The discussion is supplemented by legal scholars' statements and the Court's case law, particularly in leading cases that have shaped these standards.

Chapter Three is dedicated to discussing the compatibility of domestic provisions regarding temporary detention with the Convention standards, taking into account the historical perspective. Special attention is given to presenting a comprehensive reform of this part of the criminal procedure since Poland recognized the jurisdiction of the Court. The analysis is limited to the provisions of the Code of Criminal Procedure in force since Poland's accession to the Council of Europe, specifically the Criminal Procedure Codes of 1969 and 1997, as well as the amending acts. References to the 1932 Code of Criminal Procedure are only incidental. The aim of this analysis was to demonstrate whether the domestic provisions regarding temporary detention fulfill the Convention standard and consequently, whether the identified violations against Poland arise from flawed law or its application in practice. This section also discusses proposed changes to the provisions advocated by legal circles to ensure their compliance with the Convention standard or contribute to a change in practice.

Chapter Four presents an analysis of judgments issued by the Court in cases against Poland, in which, from the date of Poland's recognition of the right to individual petition on May 1, 1993, to December 31, 2022, the Court found violations of the Convention. These cases encompass violations of Article 5 of the Convention in all areas identified in the Court's jurisprudence, namely the unlawfulness and arbitrariness of temporary detention, its duration, and the broader scope of procedural safeguards for detained persons. The majority of the violations are associated with the infringement of the grounds for temporary detention due to its extrajudicial use. Violations of procedural guarantees are incidental in relation to the overall number of violations. Within this section, historical cases were also discussed, where the violation of the Convention stemmed from provisions that have long been repealed and are no longer relevant from this perspective. Nevertheless, considering the timeless nature of the standards and the attempt to provide a comprehensive analysis of the Court's case law concerning Poland, the discussion of these cases was deemed significant.

The Conclusion concludes the discussion, providing a summary of the argumentation and the main findings of the study, as well as proposing legislative changes arising from the non-compliance of criminal procedure with the Convention standards.

**Keywords:** temporary detention, Convention, Court, jurisprudence, standards, human rights, freedom, personal security, compensation.