

# Lex artis

The term "lex artis", literally "law of the art", is most often used in the ablative: a procedure can be "lege artis", i.e. "according to the rules of the art", according to the current state of medical knowledge. The opposite is the procedure *non lege artis*, "contrary to the rules of art".

## Legal regulations

The term "*lege artis*" is not literally enshrined in the legal system of the Czech Republic as such<sup>[1]</sup>, but is understood as equivalent to "professional practice". In the context of the applicable legal regulations, it is "proceeding according to the relevant professional obligations and standards", "proceeding at the appropriate professional level" and "in accordance with the rules of one's field".

Legal regulations and binding opinions of the Czech Medical Chamber are binding. In other cases, there are usually several parallel recommendations, and if one document does not recommend a procedure, this does not mean that such a procedure is *non lege artis*<sup>[1]</sup>. Sources are, for example, recommendations of professional societies, methodological guidelines of the Ministry, professional articles, monographs, etc. Whether a specific procedure in a specific situation was a "*lege artis procedure is decided on the basis of the opinion of a court expert (see below)*".

## Lege artis according to the Convention

The patient's fundamental right to a "*lege artis procedure is established by the Convention on Human Rights and Biomedicine (96/2001 Collection of International Treaties*<sup>[2]</sup>) in Article 4:

“ Any intervention in the field of health care, including scientific research, must be carried out in accordance with relevant professional obligations and standards. ”

— Article 4, Convention on Human Rights and Biomedicine

## Lege artis under the Health Services Act

Professional level as a patient's right is also mentioned in §28 of the Act on Health Services (372/2011 Coll.<sup>[3]</sup>). Following this, the obligation of the health service provider (§45) and the health worker (§49) to provide health services at an appropriate professional level is defined:

“ The patient has the right to the provision of health services at an appropriate professional level. ”

— para. 2, §28, Act 372/2011 Coll.

The appropriate professional level is then defined by §4 of the Act<sup>[3]</sup>

“ An appropriate professional level means the provision of health services according to the rules of science and recognized medical procedures, while respecting the individuality of the patient, taking into account specific conditions and objective possibilities. ”

— para. 5, §4, Act 372/2011 Coll.

The phrase "*with regard to specific conditions and objective possibilities*" must be interpreted strictly medically, not economically. This results from a comparative interpretation of the Act on Health Services<sup>[3]</sup> and the Act on Public Health Insurance<sup>[4],[1]</sup>

## Lex artis according to the new civil code

“ The provider proceeds according to the contract with the care of a proper expert, including in accordance with the rules of his field. ”

— New Civil Code, § 2643<sup>[5]</sup>

== Forensic expert ==

When assessing whether it is a lege artis procedure, the court will either request an expert opinion from a public authority (Ministry of Health of the Czech Republic), or it will appoint an expert whom it will hear or order to draw up a written opinion<sup>[6]</sup>. In practice, the court does not ask the officials of the ministry for a statement and proceeds directly to the appointment of a court expert<sup>[1]</sup>. In case of doubt or dispute about an expert opinion, it is possible to request a revised expert opinion<sup>[6]</sup> - theoretically, it is possible to have a practically unlimited number of revised expert opinions<sup>[1]</sup>. The list of experts is kept by the registry court. Legally, forensic experts are regulated by the Code of Civil Procedure (§ 127)<sup>[6]</sup>, the Criminal Code (§ 105)<sup>[7]</sup> and the Law on Experts and Interpreters<sup>[8]</sup>.

## Links

### Related Articles

- Rights and obligations of a healthcare worker
- Sources of medical law in the Czech Republic
- Convention on Human Rights and Biomedicine

### References

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