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# The Organization of Military Courts in the Interwar Period in the Republic of Poland

## Abstract

The military judiciary in the interwar period in the Republic of Poland faced many problems, especially those that originated from the process of creating its own existence after Poland regained independence. The first significant obstacle in the legal system of the Republic was the application of various laws of the former occupiers on its territory. In addition, the young state had no guarantees regarding the security of its borders and therefore maintained a large army. Thus, the question of the justification for maintaining a separate justice system in the army did not find too many supporters. Despite the short period of the Republic's existence on the maps of Europe, interrupted by the outbreak of World War II, it did not prevent significant changes in the scope of military judiciary in Poland.

**KEYWORDS:** military court, Second Polish Republic

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## 1 | Introduction

The organization of the justice system after World War I was not an easy process. The challenges stemmed primarily from the fact that the legal system in the territory of the Polish Republic was shaped by the laws of various occupiers, namely: German, Russian, Austrian, and from the former Congress Kingdom of Poland. There were also personnel issues in the

judiciary due to a lack of well-trained judges<sup>[1]</sup>. Additionally, reforms were hindered by the modest and insufficient funding of the justice system<sup>[2]</sup>. After the end of World War I, a clear question arose about the need to maintain the military judiciary separate from the common justice system. In countries such as Austria, Germany, and France, steps were taken to integrate military justice into the common justice system<sup>[3]</sup>.

In the Republic of Poland, in the context of a re-emerging independence, there was a general belief in the need to ensure a separate military judiciary. According to Józef Daniec<sup>[4]</sup>, military justice was a result of general justice and the interest of the army. Emil Mecnarowski<sup>[5]</sup>, on the other hand, believed that military criminal law should be different from common

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<sup>1</sup> Leszek Kania, *Służba sprawiedliwości w Wojsku Polskim 1795-1945. Organizacja-Prawo-Ludzie* (Siedlce: Wydawnictwo Uniwersytetu Przyrodniczo-Humanistycznego w Siedlcach, 2015), 240-243; which describes the procedure and criteria for recruitment into the Corps of Judicial Officers. The author points out that the primary route to enter service in the Corps of Judicial Officers was for an officer with the rank of captain or lower, who had not yet reached the age of thirty, to transfer from another corps or branch of the armed forces. At the same time, the candidate had to have completed at least one year of military service in an officer position, have a law degree, and have successfully completed a judicial apprenticeship. The apprenticeship itself lasted only nine months, although it lasted three months longer for reservists. Additionally, during the interwar period, there was considerable flexibility for officers in the justice corps to transition from the prosecutor's office to judicial roles as sitting judges.

<sup>2</sup> Ryszard Łaszewski, Stanisław Salmonowicz, *Historia ustroju Polski* (Toruń: Wydawnictwo Dom Organizatora, 2001), 155.

<sup>3</sup> Robert Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002* (Toruń: Wydawnictwo Adam Marszałek, 2002), 9, 11, which states that in Austria and Germany, military court jurisdiction was abolished in peacetime in 1920. In France, during the Senate's parliamentary discussions on the new military criminal code, a proposal was put forward to eliminate the distinctiveness of military courts. It was argued that French soldiers should be entitled to all the rights and freedoms available to all French citizens.

<sup>4</sup> Leszek Kania, *Przestępstwa przeciwko obowiązkowi wojskowemu i dyscyplinie w polskim prawie karnym i praktyce sądów wojskowych 1795-1945* (Sulechów: Oficyna Wydawnicza PWSZ w Sulechowie, 2010), 183; Józef Daniec [1880-1957], Doctor of Law, Brigadier General. Since 1914, he was associated with the judiciary – specifically with the Legion judiciary. In 1924, he was appointed by the President as a judge of the Supreme Military Court in Warsaw. On May 22, 1926, he was appointed Chief Military Prosecutor.

<sup>5</sup> Kania, *Przestępstwa przeciwko obowiązkowi wojskowemu*, 183; Emil Mecnarowski [1879-1968], starting in 1917, served as auditor of the Field Court of the Legion Command and later that same year worked in the Department of Temporary Justice. In 1926, he was appointed Extraordinary Counselor of the Legal Council under the

criminal law due to the specific structure of the armed forces. Therefore, according to Mecnarowski, the best solution for administering justice in the military would be military courts<sup>[6]</sup>. Considering that Poland's independence was not fully secured with the establishment of its first state structures, as it was still plagued by uprisings and the Polish-Soviet war posed a real threat to the country, the armed forces, which guaranteed Poland's security, operated under specific rules different from those in Western Europe. As a result, military justice in the interwar period was a product of the war<sup>[7]</sup>. Furthermore, the ongoing conflicts led to an increase in crimes committed by soldiers who benefited from various privileges and the general chaos prevailing in the country<sup>[8]</sup>.

## 2 | Early legislation on military justice in the reborn Polish Republic

Prior to the unification of the judiciary, the first court established at the beginning of the reborn nation was the Supreme Court, created by a decree of the Chief of State on February 8, 1918, which placed the common judiciary under its authority<sup>[9]</sup>. A decree of the Supreme Commander of the Armed Forces on December 5, 1918, abolished all military courts operating in the former Congress Kingdom, including those left over from the Partitions and any other courts established by individual commanders. However, this decree did not affect the courts at the General Command Districts, which handled criminal cases involving all soldiers, nor the Polish Military Court in Warsaw, which had jurisdiction over military personnel serving

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Minister of Justice. In 1927, he was promoted to the rank of Brigadier General, and in 1930, he was appointed President of the Supreme Military Court.

<sup>6</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 9,13.

<sup>7</sup> Tomasz Szczygieł, *Wojskowe postępowanie karne w II Rzeczypospolitej (1918-1939)* (Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2017), 31.

<sup>8</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 80.

<sup>9</sup> Łaszewski, Salmonowicz, *Historia ustroju Polski*, 155; see also: Agnieszka Brzostek, Monika Giżyńska, „Sądownictwo wojskowe w II Rzeczypospolitej Polskiej” *Przegląd Policyjny*, z. 1 (2016): 81.

in units formed in the former Warsaw General-Governorate<sup>[10]</sup>. The law of July 29, 1919, on temporary military justice outlined the substantive criminal law and criminal procedure applicable in the military justice system<sup>[11]</sup>. According to the first article of this law, until the unification of the military judicial legislation, the military judiciary would apply the provisions of the German military penal code from 1872 with amendments, and in terms of criminal procedure, the Austrian criminal procedure code of 1912<sup>[12]</sup>. The law of July 29, 1919, was one of the most significant legal acts of interwar Poland as it definitively established a unified criminal procedure for the Polish Army, separate from the common legal system<sup>[13]</sup>. However, for common crimes in the military judiciary, the criminal laws in effect in individual districts were to be applied<sup>[14]</sup>. The legal solutions adopted in the 1919 law on temporary military justice were not coincidental, as since Poland's independence, the military justice system had been strongly influenced by legal thought rooted in the Austrian and German legal systems. The military command and the corps of judicial officers came largely from the armies of the Central Powers, and they were well-versed in the legal systems of Austria and Germany<sup>[15]</sup>. Under the 1919 law, military courts were dichotomously divided into army criminal courts and naval criminal courts. Both types of courts shared a higher-level authority, the

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<sup>10</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 81; see also: Kania, *Służba sprawiedliwości w Wojsku Polskim 1795-1945*, 193.

<sup>11</sup> The Act of July 29, 1919, on Temporary Military Judiciary (Journal of Laws of the Polish Republic from 1919, no. 65, item 389).

<sup>12</sup> Article 1 of the Act of July 29, 1919, on Temporary Military Judiciary; Julian Skelnik, „Tworzenie i organizacja Królewsko-Polskiego sądownictwa wojskowego w latach 1917-1918” *Miscellanea Historico-Iuridica*, t. IX (2010): 58, states that the earlier basis for organizing the judiciary in the Polish Armed Forces was the order of the Supreme Commander of the Polish Armed Forces on regulating the judiciary and disciplinary authority over Polish soldiers dated August 29, 1917. This order implemented the application of German criminal laws from June 20, 1872, and December 1, 1898, to all soldiers of the Kingdom of Poland residing in the territory of the Warsaw and Lublin General Government.

<sup>13</sup> Szczygieł, *Wojskowe postępowanie karne w II Rzeczypospolitej (1918-1939)*, 41; see also: Danuta Janicka, „Pierwsza nowoczesna kodyfikacja postępowania karnego w Polsce (1928). Geneza, autorzy, zasady i ich pochodzenie” *Prawo i Więź*, No. 3 (2023): 181.

<sup>14</sup> Article 2 of the Act of July 29, 1919, on Temporary Military Judiciary.

<sup>15</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 95.

Supreme Military Court<sup>[16]</sup>. The jurisdiction of military courts extended to soldiers, deserters, war invalids, prisoners, and hostages. Garrison courts had jurisdiction over soldiers who committed military offenses punishable by up to one year of imprisonment or common crimes punishable by up to three years of imprisonment<sup>[17]</sup>. General district courts and admiralty courts served as the second instance for garrison and naval courts, and the Supreme Military Court was the second instance for rulings from general district courts and admiralty courts<sup>[18]</sup>. A decree by the Council of Ministers on May 10, 1920, concerning the introduction of the military criminal procedure law across the Republic, outlined the structure and jurisdiction of military courts. Regular military courts included: Military District Courts, Military Regional Courts, the Admiralty Court, the Naval Court, field courts, and maritime courts, with the Supreme Military Court serving as the highest authority. Extraordinary courts included: ad hoc field courts and ad hoc maritime courts<sup>[19]</sup>.

### 3 | Military justice during the threat of war with the Russian Soviet Federative Socialist Republic

The threat posed by the Bolsheviks led the State Defense Council to establish two extraordinary courts in August 1920: the State Defense Tribunal<sup>[20]</sup> and the Extraordinary Military Court<sup>[21]</sup>. The State Defense Tribunal was tasked with investigating and judging cases of significant importance that

<sup>16</sup> Brzostek, Giżyńska, „Sądownictwo wojskowe w II Rzeczypospolitej Polskiej”, 82.

<sup>17</sup> Ibidem, 82.

<sup>18</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 98.

<sup>19</sup> Articles 9-11, Article 33, Article 50, Article 59, Article 69, and Article 76 of the Regulation of the Council of Ministers dated May 10, 1920, concerning the implementation of the military criminal procedure law for the joint armed forces within the territory of the Republic, dated July 5, 1912 (Journal of Laws of 1920 No. 59, item 368).

<sup>20</sup> Regulation of the State Defense Council dated August 11, 1920, on the establishment of the State Defense Tribunal (Journal of Laws of 1920, No. 81, item 538).

<sup>21</sup> Regulation of the State Defense Council dated August 18, 1920, on the establishment of the Extraordinary Military Court for cases involving offenses by

posed a danger or harm to the state, committed either on the battlefield or within the territory of the state by soldiers or civilian officials in high positions. The Tribunal's panel included the president, his deputy, one judge of the Supreme Court, one judge of the Supreme Military Court, the chair of the parliamentary military commission, and two government delegates, one of whom had military training. The Extraordinary Military Court was established during the war to hear serious cases involving military officers and officials in the performance of their duties, cases that were not under the jurisdiction of the State Defense Tribunal<sup>[22]</sup>. After the end of the Polish-Soviet War, the extraordinary courts ceased to have a reason to function. Garrison courts were transformed into district courts, and general district courts were transformed into regional military courts<sup>[23]</sup>.

According to the regulation of the Minister of Military Affairs on November 30, 1920, concerning the organization of military garrison courts, the general military districts were divided into judicial districts. Eight General Districts were established: Warsaw, Lublin, Kielce, Łódź, Kraków, Lwów, Poznań, and Pomerania. Each of these was further subdivided into local circuits. For example, the Warsaw General District was divided into five circuits: for Warsaw and Mińsk Mazowiecki, for Modlin, for Ciechanów, for Łomża, and for Białystok. The General District of Lublin was divided into three areas: the Lublin area for Lublin and Lubartów, the Siedlce area for Siedlce, Kozienice, and Biała, and the Chełm area for Chełm and Zamość. The General District of Kielce had three areas: the Kielce area for Kielce, Radom, and Ostrowiec, the Częstochowa area for Częstochowa, Będzin, Radomsko, and Miechów, and the Piotrków area for Piotrków. The General District of Łódź created three areas: the Łódź area for Łódź, Tomaszów Mazowiecki, and Kalisz, the Kutno area for Kutno and Łowicz, and the Włocławek area for Włocławek and Konin. The next General District, that is, Kraków, was divided into: the Kraków area for Kraków and Wadowice, the Tarnów area for Tarnów and Rzeszów, and the Nowy Sącz area for Nowy Sącz, and Sanok. The General District of Lviv consisted

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officers and military officials arising from their official duties (Journal of Laws of 1920, No. 81, item 545).

<sup>22</sup> Regulation of the State Defense Council dated August 11, 1920, on the establishment of the State Defense Tribunal; Regulation of the State Defense Council dated August 18, 1920, on the establishment of the Extraordinary Military Court for cases involving offenses by officers and military officials arising from their official duties.

<sup>23</sup> Brzostek, Giżyńska, „Sądownictwo wojskowe w II Rzeczypospolitej Polskiej”, 83.

of four areas: the Lviv area for Lviv and Hrodok, the Przemyśl area for Przemyśl and Jarosław, the Stryj area for Stryj and Sambor, the Złowaczew area for Złowaczew and Brzeżanów, as well as the Buczac County. The sixth General District, Poznań, was divided into the following three areas: the Poznań area for Poznań, Kościan, Szamotuły, and Gniezno, the Bydgoszcz area for Bydgoszcz and Inowrocław, and the Ostrów area for Ostrów and Krotoszyn. The last General District—Pomeranian—comprised three areas: the Grudziądz area for Grudziądz, the Toruń area for Toruń, and the Starogard area for Starogard, and Kościerzyna. Additionally, for the coastal command in Puck, a Naval Court was established in Puck<sup>[24]</sup>.

## 4 | Constitutional legislation after 1920 and military judicial jurisdiction

Chapter IV of the Constitution of March 1921 contained provisions concerning the judiciary. Article 2 of the Constitution of March 17, 1921, established the position of judicial bodies, stating that the supreme authority in the Republic of Poland belonged to the nation and that justice was administered by independent courts. According to Article 74, the courts were responsible for dispensing justice in the name of the Republic of Poland<sup>[25]</sup>. Thus, military justice enjoyed the constitutional guarantee of judicial independence. Judges were independent in the exercise of their duties, subject only to the law, and their decisions could not be altered by anyone other than another judicial authority. A judge could only lose their position, be transferred to another court, or be retired with consent or through a judicial decision, or due to specific events clearly stated in the law<sup>[26]</sup>. Nevertheless, even after

<sup>24</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 102-103.

<sup>25</sup> Małgorzata Materniak-Pawłowska, *Ustrój sądownictwa powszechnego w II Rzeczypospolitej* (Poznań: Przedsiębiorstwo Wydawnicze-Władysław Rozwadowski, 2003), 57. Janicka, „Pierwsza nowoczesna kodyfikacja postępowania karnego w Polsce (1928)”, 194, states that the March Constitution and the Law on the structure of common courts from 1928 anticipated the establishment of peace courts in Poland; however, they were ultimately not created.

<sup>26</sup> Łaszewski, Salmonowicz, *Historia ustroju Polski*, 155.

the adoption of the March Constitution, efforts were made to strengthen the executive branch<sup>[27]</sup>.

The years 1922-1923 were among the most difficult times for the military justice system in the interwar period of the reborn Polish state. After the war between Poland and the Soviet Union, the armed forces had to be demobilized. Many military lawyers felt an increased workload due to staff shortages and the high number of criminal cases being processed. Significant changes also took place in the leadership of the military justice service<sup>[28]</sup>.

The May 1926 coup<sup>[29]</sup> led to the adoption of a constitutional amendment known as the August Amendment. On August 22, 1926, a constitutional amendment<sup>[30]</sup> was passed that strengthened the position of the president and the government. This event also impacted the military justice system, as a new military penal code was introduced on March 22, 1928<sup>[31]</sup>. The new military penal code significantly expanded the jurisdiction of the military courts, both in terms of the scope of people and the types of offenses. One of the main goals of this code was to ensure greater loyalty and obedience among soldiers<sup>[32]</sup>.

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<sup>27</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 93.

<sup>28</sup> Kania, *Służba sprawiedliwości w Wojsku Polskim 1795-1945*, 247-248, 258-259, states that after the demobilization was carried out, a period began in which conscripts were forcibly drafted into military service in the Republic of Poland. This, in turn, led to recruits committing prohibited acts resulting from the obligation to serve in the military, as well as from the hierarchical subordination within the army and the execution of orders. At the same time, individuals from national minorities were also conscripted into military service. According to the author, this was the main reason for the burden on the military justice system and the number of criminal cases processed within it.

<sup>29</sup> Jerzy Topolski, *Polska dwudziestego wieku 1914-1997* (Poznań: Wydawnictwo Poznańskie, 1998), 86, states that the May 1926 coup resulted in a situation where, overnight, full power passed into the hands of Józef Piłsudski, and the Sejm ceased to fulfill its role, being stripped of its competencies. Meanwhile, the government interpreted the fundamental law of the Republic of Poland in such a way as to be able to carry out its actions without any obstacles.

<sup>30</sup> Law of August 2, 1926, amending and supplementing the Constitution of the Republic of March 17, 1921 (Journal of Laws of 1926, No. 78, item 442).

<sup>31</sup> Rozporządzenie Prezydenta Rzeczypospolitej z dnia 22 marca 1928 r. w sprawie kodeksu karnego wojskowego (Dz. U. z 1928 r. nr 36, poz. 328).

<sup>32</sup> Ostafiński-Bodler, *Sądy wojskowe w Polskich Siłach Zbrojnych i ich kompetencje w sprawach karnych 1914-2002*, 93.



It is also worth noting that neither the January 16, 1928 decree on martial law<sup>[33]</sup> nor the March 16, 1928 decree on a state of emergency<sup>[34]</sup> authorized the government to create new separate ad hoc courts. However, the Presidential decree of March 19, 1928, on summary proceedings<sup>[35]</sup> regulated such procedures but only before the existing common courts in the Republic of Poland. Based on the President's regulation on emergency proceedings, authorization was granted to the Council of Ministers to order emergency proceedings. The Council of Ministers could exercise this right at the request of the Minister of Justice agreed upon with the Minister of Internal Affairs. Emergency proceedings could be conducted in cases of offenses specified in this regulation if the prohibited acts set forth in this legal act assumed excessive proportions and thus posed a particular danger to public order and safety, or if there was an imminent danger of the spread of such crimes<sup>[36]</sup>.

In the Second Polish Republic, the judiciary was divided into two categories: common courts which ruled on criminal and civil cases for all citizens, and special courts, which included military courts. It is worth emphasizing that on January 1, 1929, the law on the structure of common courts<sup>[37]</sup> came into effect, which was the most significant legal act defining the structure of common courts in the interwar period. Considering the diversity of judicial bodies in certain districts of the Republic of Poland after the regaining of independence, the law of February 6, 1928 – the Law on the Structure of Common Courts – led to the unification of the organization of common courts and importantly replaced disparate and foreign sources of law entirely with Polish legal acts<sup>[38]</sup>. Nevertheless, the law on the structure of common courts did not affect the structure of military courts.

The fundamental law of 1935 – the April Constitution – maintained the separation of the military judiciary. Article 70 of the constitutional law

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<sup>33</sup> Regulation of the President of the Republic of Poland of January 16, 1928, on Martial Law (Journal of Laws of 1928, No. 8, item 54).

<sup>34</sup> Regulation of the President of the Republic of Poland of March 16, 1928, on the State of Emergency (Journal of Laws of 1928, No. 32, item 307).

<sup>35</sup> Regulation of the President of the Republic of Poland of March 19, 1928, on Emergency Proceedings (Journal of Laws of 1928, No. 33, item 315).

<sup>36</sup> Art. 1 rozporządzenie Prezydenta Rzeczypospolitej z dnia 19 marca 1928 r. o postępowaniu doraźnym.

<sup>37</sup> Regulation of February 6, 1928, on the Organization of Common Courts (Journal of Laws of the Republic of Poland of 1929, No. 12, item 93).

<sup>38</sup> Materniak-Pawłowska, *Ustrój sądownictwa powszechnego w II Rzeczypospolitej*, 183.

explicitly stated that the separate organization of the military courts, their jurisdiction, and the procedure and the rights and obligations of their members would be determined by law<sup>[39]</sup>. Judges, in the performance of their duties, continued to have guaranteed independence as stipulated in the constitution<sup>[40]</sup>. Additionally, the principle was reiterated that judges could only be removed from their office, suspended from duty, or transferred to another position or retired against their will by virtue of a court ruling and only in cases explicitly indicated by law. At the same time, the constitutional law provided for an exception in cases where the transfer of a judge to another position or retirement was caused by a change in the organization of the courts<sup>[41]</sup>.

## 5 | The Law on the organization of military courts from 1936

The decree of the President of the Republic dated September 29, 1936, introduced the law regarding the organization of military courts<sup>[42]</sup>. According to this law, military courts dealt with criminal cases in the army and the navy. Military district courts and naval military courts were established as courts of first instance, while military appellate courts and admiralty courts served as courts of second instance. In addition, the Supreme Military Court was established as a common court for both the army and the navy. It was also stipulated that during wartime, military courts would administer justice in both the army and navy. Military courts in the army were referred to as field courts, while in the navy, they were called naval war courts<sup>[43]</sup>.

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<sup>39</sup> Constitutional Act of April 23, 1935 (Journal of Laws of 1935, No. 30, item 227), see also: Brzostek, Giżyńska, „Sądownictwo wojskowe w II Rzeczypospolitej Polskiej”, 84.

<sup>40</sup> Article 64, point 3 of the Constitutional Act of April 23, 1935

<sup>41</sup> Article 66 of the Constitutional Act of April 23, 1935.

<sup>42</sup> Decree of the President of the Republic of Poland of September 29, 1936, on the Organization of Military Courts (Journal of Laws of 1936, No. 76, item 536).

<sup>43</sup> Article 8 of the Decree of the President of the Republic of Poland of September 29, 1936, on the Organization of Military Courts.

The subject jurisdiction of the military courts was defined in the first paragraph of Article 2 of the 1936 Law on the organization of military courts. According to its content, military courts had jurisdiction over:

1. soldiers on active military service and individuals who were not on active military service;
2. individuals who were not soldiers but were associated with a mobilized military unit or a unit stationed outside the borders of the Republic;
3. crew members of a ship or those taken on board a vessel belonging to the navy or a ship incorporated into the armed forces of the Republic of Poland during mobilization or war;
4. prisoners of war and hostages under military control and authority.

The subject matter jurisdiction was also defined in Article 2 of the Law on the organization of military courts, which stated that the persons listed in the first paragraph were liable for all offenses committed before military courts, unless a specific provision stated otherwise<sup>[44]</sup>. Additionally, other individuals not mentioned above were subject to the jurisdiction of military courts if they could have committed military offenses related to military crimes. Criminal liability before military justice also extended to individuals performing official duties based on public law or contractual relations and serving in various military administration departments – for crimes committed during this relationship as stipulated in Articles 100 and 104 of the Penal Code<sup>[45]</sup>, as well as for offenses specified in the President's regulation dated October 24, 1934, regarding certain crimes against state security<sup>[46]</sup>. Other individuals were also subject to military jurisdiction

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<sup>44</sup> Article 2 of the Decree of the President of the Republic of Poland of September 29, 1936, on the Organization of Military Courts.

<sup>45</sup> Article 100 of the Decree of the President of the Republic of Poland of March 22, 1928, regarding the Military Penal Code stated that anyone who, by abusing their official power or position, intentionally persuaded a subordinate to commit a crime would be subject to criminal liability. Meanwhile, Article 104 of the Military Penal Code of 1928 imposed criminal liability on individuals engaging in conduct that unlawfully influenced the administration of justice.

<sup>46</sup> According to Article 30 § 1 of the Decree of the President of the Republic of Poland dated October 24, 1934, regarding certain crimes against the security of the State (Journal of Laws of 1934, No. 94, item 851), it was established that cases involving felonies and misdemeanors defined in the decree, referred to for consideration in the first instance, were under the jurisdiction of appellate courts. However,

based on special provisions for offenses defined therein. The Law on the organization of military courts established the jurisdictional area of military district courts, stating that it covered a judicial district, that was a part of the territory of one corps district. It also provided that the number of judicial districts, their boundaries, and the location of military district courts would be determined by the Minister of Military Affairs, who would also define the number and jurisdictional area of naval military courts<sup>[47]</sup>. Military district courts had jurisdiction over criminal cases committed by privates, non-commissioned officers, and civilians who did not hold the rank of officer: 1) for military offenses and other infractions punishable by imprisonment for up to one year; 2) for offenses punishable by imprisonment for up to three years, or for other crimes punishable by imprisonment for over one year – if, considering the circumstances of the act, a harsher penalty than imprisonment for up to one year was not expected, even if combined with fines or additional penalties<sup>[48]</sup>.

The composition of a military district court included military judges, one of whom was designated as the presiding officer of the court<sup>[49]</sup>.

Military appellate courts were to be established in each corps district, encompassing the entire jurisdiction of that corps. The seat of the military appellate court was to be at the headquarters of the corps commander, unless the Minister of Military Affairs ordered otherwise. Furthermore, the Minister of Military Affairs determined the jurisdictional area and seat of the admiralty courts<sup>[50]</sup>. The military appellate courts had the following competencies:

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there was an exception to this rule specified in Article 33 § 1 of the decree, which stated that military courts had jurisdiction over prohibited acts defined in Article 23 of the decree, which included: 1) unauthorized entry into military buildings or facilities where entry is prohibited; 2) violations of orders from authorities aimed at preventing the disclosure or dissemination of state secrets or military information; 3) violations of duties arising from regulations regarding the reporting of individuals in fortified areas or reinforced regions; 4) violations of restrictions or obligations arising from Article 5 § 2 of the law, namely regarding non-compliance with police supervision. Meanwhile, Article 104 of the Military Penal Code of 1928 imposed criminal liability on individuals who unlawfully influenced the administration of justice.

<sup>47</sup> Article 12 of the Decree of the President of the Republic of Poland dated September 29, 1936, on the Organization of Military Courts

<sup>48</sup> Article 20 § 1 *ibidem*.

<sup>49</sup> Article 19 *ibidem*.

<sup>50</sup> Article 11 *ibidem*.

1. to hear in the first instance cases not within the jurisdiction of military district courts;
2. to hear appeals from judgments of military district courts and from orders of the heads of those courts, as well as from rulings and orders of military investigating judges;
3. to conduct investigations in cases that fell under the jurisdiction of military appellate courts;
4. to perform actions and issue rulings and orders in other cases explicitly specified by law<sup>[51]</sup>.

A military appellate court consisted of permanently appointed military judges. Among them, a chief judge and a deputy were appointed<sup>[52]</sup>.

The Supreme Military Court was composed of the judges of the Supreme Military Court, including a president, a vice-president, and judges holding at least the rank of colonel in the Polish Army. The Supreme Military Court was located in Warsaw<sup>[53]</sup>. Its jurisdiction included hearing appeals from decisions of military appellate courts and admiralty courts, as well as from orders of the heads of these courts. The Supreme Military Court rendered judgments and opinions in other cases expressly provided for by law<sup>[54]</sup>.

## 6 | Summary

During the interwar period, the Polish military justice system maintained its distinction from the general justice system. The course of changes initiated in Western European countries right after World War I, aimed at incorporating military courts' jurisdiction into the common judicial system, did not extend to Poland. The main argument for maintaining the status quo of military justice was the real threat to the Republic of Poland from the East. The need to maintain a large army in Poland in order to ensure security required a separate military justice system because it provided a sense of a more efficient process, as judges familiar with the peculiarities

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<sup>51</sup> Article 25 *ibidem*.

<sup>52</sup> Article 24 *ibidem*.

<sup>53</sup> Article 10 *ibidem*.

<sup>54</sup> Article 33 i art. 34 *ibidem*.

of military life and regulations in the armed forces could properly assess the guilt of a perpetrator without the need for additional work to familiarize themselves with military procedures. Military jurisdiction and the general justice system faced many difficulties right after Poland regained independence. However, the issue of the applicability of various criminal laws and procedures in the territories of the former partitions emerged as the most pressing problem to be resolved as soon as possible. In the armed forces of the Republic of Poland, according to the law dated July 29, 1919, on temporary military justice, it was established that until the unification of military judicial legislation, the German Penal Code of 1872 and the Austrian Code of Criminal Procedure of 1912 would be in effect.

It is worth emphasizing that the judicial independence was guaranteed by constitutional laws in Poland during the interwar period. The 1936 Law on the organization of military courts was primarily aimed at separating the legal provisions on organizational matters from procedural norms. In addition, it should be noted that with the entry into force of the Law on the Organization of Military Courts, a military code of criminal procedure was introduced, regulating the rules of criminal proceedings reserved for the jurisdiction of military courts. With the outbreak of World War II, military judicial jurisdiction was transferred to the wartime mode of operation, thus ending its development in peacetime.

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