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EXTRAORDINARY MILITARY JUDICIARY IN THE EARLY SECOND POLISH REPUBLIC – AN INTRODUCTION TO RESEARCH

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Abstract. This article examines the structures of the extraordinary military judiciary system established in the formative years of the Second Polish Republic. Their role was of particular importance in shaping military justice after the period of partitions, handling cases initiated before 1918, and ensuring the swift prosecution of soldiers who disobeyed orders. The discussion focuses on the principal forms of extraordinary "wartime" military courts: the Supreme Military Court, Garrison and General District Courts, Summary and Field Courts, and the State Defence Tribunal. The analysis draws on the relevant legislative framework as well as other primary sources. The study serves as a preliminary contribution to further, in-depth research on the subject.

Keywords: Second Polish Republic; extraordinary judiciary; military justice; military court structures; interwar military affairs.

INTRODUCTION

The formative years of the reborn Polish state were particularly challenging. Alongside the enactment of new legislation, the large-scale replacement of administrative personnel after the period of partitions, and the struggle to secure national borders, the authorities also faced the task of establishing state institutions, including those responsible for administering justice. The creation of extraordinary judicial bodies was intended not only to provide a measure of procedural continuity for cases initiated before 1918, but also to serve as the foundation for the comprehensive reconstruction of the military judiciary system. Another key feature of extraordinary judiciary was its capacity to hear cases, such as espionage, insubordination, or desertion,

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directly at the front. These courts were often set up ad hoc, for example in the form of field tribunals, which helped to curb such offences among soldiers during wartime operations. Some of these courts remained in operation throughout the entire interwar period.

The aim of this study is to outline the principal structures of the extraordinary military courts, presented in the chronological order of their establishment, together with a description of the proceedings conducted before them. The analysis draws on enacted legislation as well as other relevant primary sources.

This article is intended as an introduction to in-depth research into the activities of these judicial bodies. Based on archival records preserved in the Central Military Archives, the Archive of New Records in Warsaw, partially within the holdings of the Institute of National Remembrance, and in the Archives of the Polish Institute and General Sikorski Museum in London, it would be possible to reconstruct in detail the functioning of these institutions. Such research might encompass, for example, compilations of proceedings, statistical data on recorded offences, and analyses of the processes that culminated in judicial decisions.

1. SUPREME MILITARY COURT (SMC)

The Supreme Military Court was established by decree[1] of the Head of State on 8 February 1919. Under this decree, the Court was seated in the capital city of Warsaw (sec. 1), and its jurisdiction extended over the entire Polish Army, irrespective of the station or operational deployment of individual units (sec. 1). Until the introduction of a uniform code of criminal procedure across all military courts, the Court conducted first-instance proceedings according to whichever procedure was considered applicable in a given case (sec. 2). It was later designated the highest appellate and supervisory body for all military courts, including field tribunals, and served as the cassation authority in cases decided by the General District Courts (sec. 3). The decree also authorised the Court to review judgements of field courts, by way of an extraordinary remedy, in instances where a party petitioned for the reopening of proceedings on the grounds of a gross violation of law by the lower court, or where the decision had been based on erroneous factual assumptions (sec. 3-4). In addition, the Court was entrusted with bringing to a close proceedings pending before the former military courts of the partitioning powers within the territory of the Republic, as well as cases involving Polish citizens residing abroad (sec. 5).

[1] Journal of Military Orders of 8 February 1919, No. 14, item 502. It contained a total of 7 provisions.

Within the jurisdiction of the Supreme Military Court[2] were offences committed by commanders of individual General Districts, corps and army commanders, senior service officials, and the heads of departments within the Ministry of Military Affairs (sec. 6). Proceedings before the Court were to be conducted in accordance with Articles 14, 62, and 67 of the Act on the Provisional Organisation of the Military Judiciary[3] (sec. 7). It should be noted that these provisions were supplemented by an order issued on 14 February 1919 by Colonel Jerzy Wroczyński, then head of the Ministry of Military Affairs, which defined the posts within the SMC.[4] The judicial corps was to consist of eight officers: the President of the Court, a Vice-President, five members, and one senior secretary. The prosecution service comprised a Prosecutor and two Deputy Prosecutors. In addition, eleven military officials were assigned to both the Court and the Prosecutor's Office to provide administrative support, including secretaries and clerks.[5] The first composition[6] of the Court included Brigadier General Franciszek Niżałkowski as President, with Brigadier General Jan Roszkowski, Colonel Edward Szpakowski, Colonel Jan Czapliński, and Colonel Jak Wozmek serving as members. On the prosecution side, Brigadier General Leon Iwanowski was appointed Prosecutor of the Supreme Military Court, assisted by Colonel Cezary Piotrowski and Major Emil Mecnarowski as Deputy Prosecutors.

The ceremonial opening of the Supreme Military Court took place on 8 July 1919. The session was presided over by the Court's President,

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[2] An interesting collection of proceedings conducted by the Supreme Military Court in the early years of the independent state can be found, among others, in the Collection of Military Court Records, 1920-1939, held at the Archive of New Records in Warsaw, ref. no. 2/1510/0.

[3] It is worth citing the following provisions: the Regulation of the Council of Ministers of 10 May 1920 on the Entry into Force in the Territory of the Republic of the Act on Military Criminal Procedure for the Common Armed Forces of 5 July 1912 (Journal of Laws No. 59, item 368). Article 14: "Section 1. Where an individual has committed several punishable acts, some falling under military jurisdiction and others under civilian jurisdiction, each competent court is to proceed independently. Section 2. In determining the penalty, the court delivering the subsequent judgement shall duly take into account the sentence imposed by the earlier decision. Section 3. Where one of the concurrent offences carries the death penalty or life imprisonment, proceedings in respect of that offence shall take precedence over those concerning acts subject to a lesser penalty. Section 4. As a rule, the sentence handed down by the court that first rendered a final judgement is to be executed first." Article 62: "The competent commander orders the convening of summary courts and announces it in an order." Article 67: "A summary court may be held at any time, even in the open air."

[4] Journal of Military Orders of 19 February 1919, No. 19, item 630.

[5] The order also granted authorisation that, if necessary, officers of the judicial corps with judicial powers could be assigned as reporting judges, as well as senior assistant officers.

[6] The Court's composition was formally determined by the Decree of the Commander-in-Chief of the Polish Armed Forces of 1 March 1919 (Journal of Military Orders of 18 March 1919, No. 30, item 950).

Franciszek Niżałkowski, who stressed that the Court was commencing its work without a proper, binding and uniform statute regulating military criminal procedure [Zaczyński 1919, 281]. The primary task of the SMC was to break with the tradition of the former *audytoriaty*, i.e. single-instance courts which conducted proceedings without permitting either appeal or cassation, with the sole possibility of recourse being a revision of the judgement on grounds of nullity [ibid., 281-82].

Until 1939, the SMC served as the appellate instance for admiralty courts as well as for judgements issued by military district courts.[7] It was undoubtedly the most important judicial body in interwar Poland.[8] Particularly notable was its initial function as an institution designed to bring order to ongoing proceedings even before the adoption of unified legislation. Although the regulations governing its activities evolved over time, it may be said that in the formative years of the Polish state the Court fulfilled its intended role, and in the later interwar period it stood as a cornerstone of the entire judicial system of the Second Republic.

2. GARRISON COURTS AND GENERAL DISTRICT COURTS

The Regulation of 10 May 1920[9] established a judicial system to adjudicate criminal cases within the armed forces. Garrison courts[10] dealt with cases involving enlisted soldiers (Article 12(1)). Their jurisdiction extended to offences punishable by imprisonment of no more than one year, regardless of any additional penalties, as well as to offences carrying sentences of up to three years' imprisonment, provided that, in view of mitigating circumstances, no penalty exceeding one year's imprisonment (together with any additional sanctions) was anticipated (Article 12(1)(a) and (b)). The applicable provisions of the Regulation varied according to the territory in which the offence was committed. In areas governed by the Russian Penal Code of 1903, garrison courts heard cases involving infractions and misdemeanours punishable by up to one year's imprisonment, also where combined with fines or other additional penalties

[7] Decree of the President of the Republic of Poland of 29 September 1936, the Law on the Organisation of the Common Courts (Journal of Laws No. 76, item 536), Article 33.

[8] Before the Supreme Military Court, judges of district courts were likewise held accountable for offences committed in the exercise of their official duties. This was established by the Secret Order of Corps District Command No. III of 1 December 1925, L.51, item 6. Central Military Archives, Rembertów, Warsaw, ref. no. DOK III/25.

[9] Regulation of the Council of Ministers of 10 May 1920 on the Entry into Force in the Territory of the Republic of the Act on Military Criminal Procedure for the Common Armed Forces of 5 July 1912 (Journal of Laws No. 59, item 368).

[10] Order on the Establishment of Garrison Courts and the Reorganisation of Courts for the Exercise of Summary Jurisdiction and of Mobile Investigative Commissions, 30 November 1920. Central Military Archives, Rembertów, Warsaw, ref. no. I. 351.3.3.

(Article 12(2)(a) and(b)). They also adjudicated abuses of law punishable by imprisonment where, owing to mitigating circumstances, no penalty harsher than one year's imprisonment (together with fines and other sanctions) was expected (Article 12(2)(c)). The Regulation further provided that, in areas where the Austrian Penal Act of 1852 or the German Penal Code of 1871 remained in force, garrison courts exercised equivalent jurisdiction. Under Austrian law, they dealt with violations and other offences punishable by up to one year's imprisonment (Article 12(2/2)(a) and (b)), while under German law they heard infractions and misdemeanours punishable by fortress confinement not exceeding one year or by a fine, irrespective of mitigating circumstances, excluding crimes carrying penalties of penitentiary imprisonment or death (Article 12(3) (a) and (b)). It is also noteworthy that the decision to refer a case to a garrison court lay with the commander competent for that body (Article 78).

Garrison courts were composed of a judge together with a number of officers from the judicial corps (Article 34). Prosecutorial functions were performed by a judicial officer, while the indictment was replaced by a written order of the competent commander, which had to be delivered to the officer with instructions to submit a motion for punishment before the court (Article 35). At hearings, the prosecutor, the judicial officer, and a court clerk were required to be present (Article 32). It is worth noting that these provisions also applied to the functioning of so-called naval courts established for the navy[11] (Article 36).

In the early years of the Second Polish Republic, general district courts were also in operation.[12] Like the other judicial bodies described here, they were of a highly specific nature [Szczygieł 2017, 93]. They consisted of a presiding judge [Wyszomirski 1938, 345-46] and military judges (Article 39). Their jurisdiction extended to all cases not assigned to garrison courts, as well as to appeals against garrison court judgements, including, in accordance with the statute on military criminal procedure then in force, the examination of complaints lodged with these bodies (Article 13(1) and (2)). The number of such courts varied frequently, reflecting the establishment and reorganisation

[11] Draft Act on the Supreme Authorities of the Navy, Chancellery of the Sejm of the Republic of Poland, Records of Cases Referred to the Military Commissions, Archive of New Records in Warsaw, ref. no. 42.

[12] Regulation of the Minister of Military Affairs of 30 November 1920 on the Establishment of Military Garrison Courts and the Division of Military General Districts into Judicial Circuits (Journal of Laws No. 5, item 22). The following districts were established: I Warsaw General District (circuits: Warsaw, Modlin, Ciechanów, Łomża, Białystok), II Lublin General District (circuits: Lublin, Siedlce, Chełm, Ostrów), III Kielce General District (circuits: Kielce, Częstochowa, Piotrków), IV Łódź General District (circuits: Łódź, Kutno, Włocławek), V Kraków General District (circuits: Kraków, Tarnów, Nowy Sącz), VI Lwów General District (circuits: Lwów, Przemyśl, Stryj, Stanisławów, Złoczów), VII Poznań General District (circuits: Poznań, Bydgoszcz, Ostrów), VIII Pomeranian General District (circuits: Grudziądz, Toruń, Starogard).

of districts [Materniak-Pawłowska 2001, 277-78]. Depending on the cases on the docket, adjudicating officers were appointed as appropriate. These courts also tried serious crimes punishable by death or life imprisonment (Article 44).[13] Proceedings encompassed so-called preparatory sessions held outside the main trial, for instance, when the investigating judge disagreed with the prosecutor on a motion (Article 40(1)); when complaints were lodged against a judge's decision in cases provided for by the Act on Military Criminal Procedure (Article 40(2)); when a presiding judge, on reviewing an indictment, considered further investigation necessary (Article 40(3)); or when appeals were brought against the judgements of lower courts under paras 34 and 342 of the Act (Article 40(4)). Where a party received an unfavourable judgement, an appeal could be filed with an appellate court established within the relevant general district court, composed of two military judges (Article 48). The same provisions likewise applied to admiralty courts (Article 49).

The judicial structure may be summarised as follows [Skelnik 2010, 133]: 1) For criminal cases in the armed forces, garrison courts and general district courts were established; 2) In the navy, their equivalents were naval courts and admiralty courts; 3) Common to both branches was the Supreme Military Court.

Following the conclusion of the Polish–Bolshevik War in 1921, reforms were introduced. Garrison courts were reorganised as regional military courts, while general district courts became military district courts. From that point onwards, not only the terminology but also certain aspects of jurisdiction underwent a marked evolution.[14]

3. SUMMARY COURTS AND FIELD COURTS

In the early years of the independent Polish state, summary courts played a particularly important role. Their primary purpose was to curb

[13] In such cases, adjudicating panels were composed as follows: Two military judges, one of whom acted as presiding judge and director of proceedings, together with three assessors, appointed in accordance with rank. A) Generals and equivalent ranks – one member of the Supreme Military Court and the head of the general district court (or his deputy) as the second member, with three generals appointed by the Minister of Military Affairs serving as assessors; B) Regimental commanders and equivalent ranks – the head of the court (or his deputy) and a military judge, together with three generals or colonels holding command appointments as assessors; C) Staff officers – two military judges and three staff officers as assessors; D) Junior officers – two military judges, one staff officer, and two junior officers as assessors; E) Enlisted men – two military judges, with one junior officer and two enlisted soldiers as assessors.

[14] Regulation of the Minister of Military Affairs of 30 November 1920 on the Establishment of Military Garrison Courts and the Division of Military General Districts into Judicial Circuits (Journal of Laws, No. 5, item 22).

crimes that threatened national order and security, as well as the general interests and reputation of military service [Przyjemski 2005, 20-24]. They dealt with charges such as espionage on behalf of a foreign power, unauthorised recruitment, cowardice, and looting. The first provisions on summary proceedings can already be found in the decree of the Commander-in-Chief of 1919.[15] Greater significance, however, attaches to the Regulation of 10 May 1920 discussed above, which at that stage of development of the military judiciary systematised the functioning of summary jurisdiction.[16]

Summary proceedings were conducted solely against persons subject to military jurisdiction. In the early years, their scope depended on the territory in which the offence had been committed, and applied as follows (Article 60): a) in the former Austrian partition – murders, robberies, arson, public rapes, and malicious damage to property; b) in the former Russian partition[17] – assaults, homicides, arson, and violations of property; c) in the former Prussian partition – murders, robberies, arson, and the damage or destruction of property.

The decision to establish summary jurisdiction in any given case lay with the Minister of Military Affairs, who in exceptional circumstances could delegate this authority to commanders of the relevant general districts (Article 60). The establishment of such bodies had to be publicly announced in military orders (Article 62). A summary court was composed of the same personnel who served in the general district courts, and its proceedings could take place at any location within the district in which it had been established (Article 65). Proceedings were initiated by the prosecutor through the immediate delivery to the district court of an order from the competent commander, issued once an investigation had been completed under the applicable criminal procedure. Summary courts convened with remarkable speed, within 24 hours of receiving the order. Alongside the court sat an escort and an execution squad, ready to carry out a death sentence immediately if imposed. Clergy were also present so that the condemned could confess before execution if they wished (Article 66). Summary courts could be convened at any time, and hearings were held even in the open air (Article 67). The Regulation also allowed for the establishment of summary courts in the field and at sea. In such cases, the competent unit commander was authorised to convene them[18] (Article 76), but only for the offences

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[15] Decree of the Commander-in-Chief of 3 January 1919 on the Regulations for Wartime Summary Courts (Journal of Military Orders, No. 1, item 5).

[16] Regulation of the Council of Ministers of 10 May 1920 on the Entry into Force in the Territory of the Republic of the Act on Military Criminal Procedure for the Common Armed Forces of 5 July 1912 (Journal of Laws No. 59, item 368).

[17] For detailed accounts of Russian military justice see Lubodziecki 1926.

[18] The competent commander was responsible for confirming the judgements. The standard formula of confirmation read: "I approve the judgement and order its immediate execution." Example:

specified in Article 60 of the Regulation, i.e. cowardice, looting, espionage for a foreign power, and insubordination. In all other cases, this authority was reserved for the Commander-in-Chief. Field summary courts closely resembled those convened aboard ships, the main difference being that in naval proceedings a naval officer presided. Every order and judgement had to be reported immediately to the Commander-in-Chief[19] (Article 77).

The adjudicating panel of "ordinary" summary courts generally consisted of a staff officer, captain or cavalry captain as presiding judge, two junior officers, an officer cadet or sergeant, a non-commissioned officer, and a senior private. These proceedings did not involve a preliminary investigation; evidentiary proceedings were limited to hearing the parties present, and witnesses were examined only if the court considered it necessary [Szczygieł 2016, 71-72]. Judgements were final and could only result in conviction or acquittal. There was no right of appeal. The sole possibility of avoiding punishment lay in the Commander-in-Chief's right of pardon. Summary procedure was excluded in respect of persons under 17 years of age, pregnant women, those suffering from serious illness or mental incapacity, and cases falling outside the scope of summary jurisdiction.[20]

Another form of extraordinary military jurisdiction was the field court[21] [Rybicki 1928, 46-48]. The first such courts were established in Galicia, at Przemyśl and Lwów. In their initial period they lacked fixed organisational structures or detailed procedural rules [Daniec 1928, 344-50]. Their legal status was fluid, as the borders of the state were still unsettled, meaning that the applicable law varied according to where a unit was stationed[22] [Müller 1932, 43-45], with German and Austrian provisions predominating [Szczygieł 2016, 61-62]. One of the first significant documents regulating their operation was an order issued by the Command of the Polish Army on 5 March 1919.[23]

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judgement of the Field Court of the Supreme Command of 28 January 1921. Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, ref. no. I. 301.22.8.

19 For example: Letter from the Judicial-Legal Section of the Supreme Command of the Polish Army, dated 24 March 1920 and signed by Józef Piłsudski, concerning the annulment of the judgement of the Field Court of the Stage District in Vilnius of 5 March 1920. Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, ref. no. I. 301.22.1.

20 These conditions were set out in the Decree of the Commander-in-Chief of 3 January 1919 on the Regulations for Wartime Summary Courts (Journal of Military Orders, No. 1, item 5).

21 Also significant was the Instruction defining the relationship of field courts both to their judicial superiors and to the division commander, or, where applicable, the stage district commander. Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, ref. no. I. 301.21.1.

22 As a rule, a field court was established wherever a unit was stationed.

23 Order of the Supreme Command of the Polish Army of 5 March 1919 on the Organisation of Field Courts in the War Zone, No. 1491/IV, General Staff, together with the related Order of the Supreme Command of the Polish Army of 24 July 1920, Nos. 6298/20/Sąd and 6353/V/

On the basis of the cited order, proceedings in their initial phase had the following characteristics: the judicial superior was the division commander; jurisdiction extended to military personnel under that commander's authority (civilians were subject to these provisions only in exceptional cases); a field court consisted of at least two officers of the judicial corps, one of whom acted as investigating judge; judgements were not subject to appeal: if confirmation was refused, the case files were referred to the Supreme Commander for decision; a death sentence likewise required the Supreme Commander's approval before execution; each field court maintained a so-called field detention centre for persons under investigation; the court was tied to the front and to the stationing of a specific unit and was not subject to evacuation; and the files of completed cases were forwarded to the Military Archives in Warsaw [ibid., 65-67].

The procedure itself was relatively straightforward. Hearings began with the announcement of the judges' names and the taking of an oath. The order of accusation was then read, and the accused was required to answer all questions. Evidentiary proceedings could be conducted, usually through the examination of witnesses; in espionage cases, testimony was often provided by officers of the intelligence services. The judgement was drafted by an officer of the judicial corps.[24] Until the introduction of uniform provisions on field proceedings throughout the country, appeals against unfavourable judgements lay with the Supreme Military Court. Later, the process was modified. The accused submitted a protocol statement setting out objections to the judgement, the judicial superior added his opinion, and the complete documentation was transmitted to the Supreme Commander, who had the authority either to approve the judgement or to amend it [ibid., 68].

Field courts were likewise upheld in the Regulation of May 1920.[25] As before, their establishment was by order of the Commander-in-Chief,[26] and panels were convened at the summons of the competent commander (Article 69). Each panel consisted of a military judge, who directed the

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Gen. Rozwadowski. Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, Directorate of Field Judiciary, ref. no. I. 301.22.1.

[24] Order of the Supreme Command of the Polish Army, Directorate of Field Judiciary and Military Legal Service, No. 9842/20/Sąd. Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, Field Courts, ref. no. I. 301.22.1.

[25] Regulation of the Council of Ministers of 10 May 1920 on the Entry into Force in the Territory of the Republic of the Act on Military Criminal Procedure for the Common Armed Forces of 5 July 1912 (Journal of Laws No. 59, item 368).

[26] In the early years, when the state borders had not yet been definitively drawn, the criterion for determining whether a population fell under the jurisdiction of field courts was the presence or absence of parliamentary representation for the inhabitants of a given territory. Proclamation poster of 26 June 1920, Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, ref. no. I. 301.21.1.

hearing, and four assessors, with the presiding role assigned to the senior officer by rank (Article 70). Commanders were guaranteed a sufficient number of judicial corps officers to ensure the proper conduct of investigations, the functions of the presiding judge, and the role of prosecutor (Article 73). In hearings held in the field and at sea, no investigating judges were appointed.[27] The Commander-in-Chief also had the authority to direct that a person not otherwise subject to military jurisdiction be tried under it if there was a risk of that person being detained either in enemy country or territory, or by the enemy's allies (Article 75).

Both summary and field proceedings outlasted the formative years of the independent Polish state and continued in use until the fall of the Second Republic. The legal basis for summary jurisdiction throughout the interwar period was the order of 1 April 1922,[28] although its provisions were repeatedly amended.[29] The Military Code of Criminal Procedure of 1936[30] retained this procedure and its corresponding norms; in practice, the rules of summary jurisdiction changed little during the interwar years.

A similar situation applied to field proceedings. After the conclusion of military operations in April 1925,[31] a special instruction was issued for field courts, which remained in force for many years. Only the Military Code of Criminal Procedure of 1936 unified these provisions by incorporating them into the Code itself [Szczygieł 2017, 329]. In substance, however, they differed little from the earlier regulations discussed above.

4. STATE DEFENCE TRIBUNAL

The State Defence Tribunal was established by the Regulation[32] of 11 August 1920. Its primary function was to examine and adjudicate cases

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[27] Adjudication in the field was carried out by field courts; on vessels serving within fleet formations, jurisdiction was exercised by fleet courts-martial; and on vessels assigned to independent missions, shipboard courts-martial were convened.

[28] Order of the Minister of Military Affairs of 1 April 1922, No. 3037/I/22, Department IX of Justice.

[29] The significance of this jurisdiction was underscored in the Order of the Supreme Command of 24 July 1920, No. 6298/20/Sąd and 6353/V/Gen. Rozwadowski, which declared that "judges bear personal responsibility for ensuring swift, uncompromising and resolute adjudication, demanded by the imperative of defending the State." Central Military Archives, Rembertów, Warsaw, Supreme Command of the Polish Army, ref. no. I. 301.21.1.

[30] Decree of the President of the Republic of Poland of 29 September 1936 – Military Code of Criminal Procedure (Journal of Laws No. 76, item 537).

[31] Instruction for Field Courts (ref. no. 2/1925 II), approved for official use by the Minister of Military Affairs by letter of Section III of the General Staff, L.2088, Regulation of 15 April 1925.

[32] Regulation of the Council of National Defence of 11 August 1920 on the Establishment

referred by the Council of National Defence [Brzostek and Giżyńska 2016, 82-83]. These cases had to bear the hallmarks of particularly serious offences, as defined in the criminal statutes, and involve dangers or harms detrimental to the defence of the state. They encompassed offences committed both on the battlefield and within the country, and concerned not only civilians and members of the armed forces but also holders of the highest state offices (Article 1). According to the Regulation, the adjudicating panel of the Tribunal consisted of (Article 2): the President of the Tribunal, judges of the Supreme Court, judges of the Supreme Military Court, the chair of the Sejm Military Commission, and two government delegates, one of whom was required to have advanced military education. The permanent President of the Tribunal and his deputy were appointed by the Prime Minister on the motion of the Council of National Defence (Article 3). Membership could not be declined (Article 4). In adjudicating cases, the Tribunal applied the relevant provisions of the Military Criminal Code as well as those of the regional statutes[33] applicable to the specific offence (Article 8). Of particular note is that the prosecutorial function was performed by the Minister of Justice, who could delegate it to his deputies, senior ministry officials, representatives of the Prosecution Office of the Supreme Court, or, by agreement with the Minister of Military Affairs, to prosecutors attached to the Supreme Military Court (Article 5).

The members of the Tribunal were required to take an oath in accordance with the judicial formula in force at the time (Article 7). A key prerogative of the Council of National Defence was the power to order investigations into charges brought against specific individuals, or to inquire into particular events and seek to establish their causes (Article 9). Investigations were conducted by a delegate of the State Defence Tribunal, who could act independently, in cooperation with the relevant authorities, or through the civilian and military judiciary. He was vested with the rights of an investigating judge (Article 10). Case files were forwarded to the Minister of Justice who, in the absence of objections, submitted a motion for a main hearing. Where doubts arose, he could instead recommend discontinuance or refer the case to a civil or military court. Main hearings were conducted before a six-member panel (Article 12), and judgements were reached by simple majority vote (Article 14). Orders issued by the Tribunal or its delegates in the course of proceedings were binding on all authorities, offices, and units of the Armed Forces of the Republic (Article 16). With the dissolution of the Council of National Defence, the Tribunal itself was disbanded, and the files of pending cases were transferred to the competent courts or prosecutors (Article 17).

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of the State Defence Tribunal (Journal of Laws No. 81, item 538).

[33] The unification of law in Poland gathered real momentum only after the creation of the Codification Commission in 1919.

By its very name, this body appeared to be a major institution of justice in the newly independent Polish state. Yet its existence was short-lived. It was dissolved by the Act[34] of 9 December 1920. Only one case ever came before it, i.e. that of General Aleksander Boruszczak, accused of surrendering Vilnius to the Bolsheviks without a fight. The matter remained unresolved prior to the Tribunal's dissolution, and in 1921 the case files were transferred to the Military Court of the Warsaw District Command, which discontinued the proceedings for lack of evidence [Marszałek 1992, 125-36].

In conclusion, although the State Defence Tribunal proved short-lived, the rationale for its creation was entirely justified, especially given the context of the Polish–Soviet War. Acts of insubordination by soldiers or treason by civilians threatened not only public morale but also the cohesion of the armed forces, and could have risked outright defeat at the front. For that reason, the establishment of an extraordinary judicial institution in the form of the Tribunal was of considerable importance.

CONCLUSIONS

Extraordinary military jurisdiction constituted a significant element of the administration of justice in the Second Republic. Although not all of the courts endured throughout its existence, the decision to establish the institutions examined above during the formative years of independence was well founded. Each body dealt with different categories of cases, exercised specific competences, and operated within a defined procedural framework. The most important was undoubtedly the Supreme Military Court, which, despite changes in its authority, remained in operation until the end of the interwar period. By contrast, the State Defence Tribunal proved short-lived, although the reasons for its creation were nonetheless entirely justified.

In conclusion, the extraordinary jurisdictions discussed here fulfilled their intended functions and contributed to consolidating the system of military justice. It should be recalled, however, that these were courts of a distinctly "wartime" character. Even though the years up to 1939 were comparatively peaceful, these courts continued to function. As a result, at the outbreak of war there was no need to establish new judicial bodies or to hurriedly issue appropriate regulations, for both the institutions and the legal framework were already in place.

[34] The State Defence Tribunal was formally dissolved by the Act of 9 December 1920 on the Repeal of the Regulation of the Council of National Defence of 11 August 1920 on the Establishment of the State Defence Tribunal (Journal of Laws No. 119, item 785).

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