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# The peacetime duty to provide means of transport for the army on the example of inland waterway vessels and aircraft. The case of interwar Poland

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## 1. Introduction

The need for armies to move and to transport people and military loads has existed since the beginning of the development of civilisation and the emergence of military art. For centuries, all possible means were used for this purpose, i.e. water means (ships, boats, rafts), and land means such as horses, elephants, oxen, donkeys and wagons.<sup>1</sup> With the development of civilisation and military technology, the different ways of transporting troops

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<sup>1</sup> See for example: J. Szymczak, *Z kasztelu do obozu wojennego. Konno, zbrojnie i z dobrze zaopatrzonym wozem*, "Acta Universitatis Lodziensis. Folia Historica" 2017, No. 99, pp. 57–81; A. Bołdyrew, *Sprzęt taborowy (wozy) w przemieszczeniu armii zaciężnej w Polsce ostatnich Jagiellonów*, "Acta Universitatis Lodziensis. Folia Historica" 2017, No. 99, pp. 111–124; J.T. Kałużny, *Miejskie wozy wojenne z ziem łeczyckiej i sieradzkiej w składzie armii Królestwa Polskiego w XVI–XVII wieku*, "Acta Universitatis Lodziensis. Folia Historica" 2017, No. 99, p. 125–147.

have evolved, and new ones have been developed, such as air, rail and road transport.<sup>2</sup>

The experiences of World War I confirmed that in order to conduct large-scale warfare it is not enough to use only armed forces and their reserves accumulated during peacetime. This meant that in order to achieve a military success it was necessary to reach for the reserves in the economic potential of the country and to prepare these reserves in advance.<sup>3</sup> As was emphasised in the interwar literature, during preparations for war the material preparation for it was put in the first place. This was to be achieved primarily through legislation in the field of economic defence of the State.<sup>4</sup> In view of the above, the issues which are the subject of my analysis – due to the adopted research methodology – will be discussed from the point of view of administrative law, i.e. they will be understood as ownership restrictions and duties to provide contributions for the state – the army, which belong to the category of contributions ordered in the public interest, which has priority over private interest.<sup>5</sup>

The system of in-kind contributions for the army, which was established in the Second Polish Republic, was based on two different methodological foundations. The first one assumed an obligation of the indicated entities to provide material means (movable and immovable property) in an extraordinary situation of the Polish State, i.e. in a situation dictated by reasons of the defence of the State.<sup>6</sup> Such situations included, first of all, the outbreak of

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<sup>2</sup> M. Jabłonowski, *Wobec zagrożenia wojną. Wojsko a gospodarka Drugiej Rzeczypospolitej w latach 1935–1939*, Warszawa 2001, pp. 167–189; W. Jarno, *Śłużba samochodowa Wojska Polskiego w latach trzydziestych XX wieku*, "Acta Universitatis Lodzensis. Folia Historica" 2017, No. 99, pp. 229–258.

<sup>3</sup> Z. Kłoczewski, *Polska gospodarka wojskowa 1918–1939 (zarys systemu)*, Warszawa 1987, p. 227.

<sup>4</sup> S. Sosabowski, *Gospodarcza konstytucja obrony państwa*, "Bellona" 1927, No. 1(28), pp. 43–50 and 60.

<sup>5</sup> S. Głąbiński, *Polskie prawo skarbowe*, Lwów 1928, p. 75.

<sup>6</sup> See: T. Jałowiec, *Wykorzystanie cywilnych środków transportu na potrzeby sił zbrojnych*, "Prace Naukowe Politechniki Warszawskiej. Transport" 2018, No. 120, p. 130.

war or the ordering of partial or general mobilisation.<sup>7</sup> The second foundation was the obligation of the indicated entities to provide material means for the military in peacetime and, no matter how we assess it in terms of a restriction of property rights, constituted an exceptional administrative nuisance.

The obligation to provide the army with movable property in the form of means of transport in peacetime should be considered a serious nuisance, all the more so because it was not dictated by any considerations of an emergency or a threat to human health or life. It served mainly the purposes of supply, training (military exercises) or military qualification (a whole range of undertakings aimed at determining one's fitness for active military service).<sup>8</sup>

Therefore, in the minds of the obligated persons, it was an exceptionally materially unpleasant duty because it often deprived the owner (possessor) of such an item of the possibility to use it, e.g. for earning purposes. And despite the fact that the obligee was entitled to remuneration resulting from the use, loss or damage of the item delivered to the army, it was often not in the amount adequate to the losses caused by the lack of the means of transport during the time it was used by the army. In addition, it should be remembered that, after all, the nature of this obligation as a public burden had not changed for centuries and it remained practically in a similar form despite the change over successive centuries of economic and political systems.<sup>9</sup>

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<sup>7</sup> M. Konarski, *The Obligation to Hand Over Draught Animals and Carts Upon the Announcement of Mobilisation or the Outbreak of War in the Light of the Act of 21 February 1922 and the Implementing Acts*, "Teki Komisji Prawniczej PAN Oddział w Lublinie" 2020, No. 2(12), pp. 151–166.

<sup>8</sup> See: T. Kamiński, *Transport wojskowy*, in: *Ekonomika wojskowa*, ed. M. Koch, Warszawa 1979, pp. 206–209.

<sup>9</sup> M. Konarski, *Przyczynek do badań nad publicznymi postugami transportowymi i komunikacyjnymi w dawnym prawie polskim*, "Studia Prawnicze KUL" 2019, No. 3(79), pp. 111–131; idem, *Publiczne postugi transportowe w okresie Księstwa Warszawskiego w świetle postanowień dekretu z dnia 22 maja 1810 roku „względem koni i podwódt dostarczonych pod transporty i wojskowych”*, "Czasopismo Prawno-Historyczne" 2019, No. 2(71), pp. 113–135; idem, *Osobiste i rzeczowe ciężary wojenne w świetle prawodawstwa okresu insurekcji kościuszkowskiej 1794 roku*, "Folia Iuridica Universitatis Wratislaviensis" 2020, No. 2(9), pp. 8–37.

## 2. The system of providing means of transport in peacetime

In the light of Polish inter-war regulations, the system of providing means of transport for the army in peacetime comprised animal-drawn carts, harnessed animals, riding and pack animals with trappings<sup>10</sup>, cars, motorbikes bicycles<sup>11</sup>, and the subject of this analysis – means of water transport<sup>12</sup> and aircraft.<sup>13</sup>

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<sup>10</sup> Regulation of the Minister of Internal Affairs and the Minister of Military Affairs of 19 October 1929 in agreement with the Ministers of Agriculture and Treasury on the obligation to provide animal-drawn carts, harnessed animals and riding and pack animals with trappings as means of transport for the army in peacetime, *Dziennik Ustaw* [hereinafter: *Journal of Laws*] No. 82, item 613.

<sup>11</sup> Regulation of the Minister of Internal Affairs and the Minister of Military Affairs of 29 July 1930 issued in agreement with the Ministers of Treasury and Public Works on the obligation to supply cars, motorbikes and bicycles as means of transport for the army in peacetime, *Journal of Laws* No. 58, item 470. It is assumed, that the first use of bicycles in military service took place in France during the Franco-Prussian War of 1870–1871, where several bicycles were used for reporting duty. For more on the use of bicycles as a means of military transport, see: W. Berka, *Kolarze jako broń w rozwoju historycznym*, "Bellona" 1922, No. 3(7), pp. 258–276.

<sup>12</sup> Regulation of the Ministers of Internal Affairs, Military Affairs, Public Works and Industry and Trade of 24 July 1930 in agreement with the Ministers of Treasury and Transport on the obligation to provide inland water transport means for the army in peacetime, *Journal of Laws* No. 77, item 603; Regulation of the Ministers of Internal Affairs, Military Affairs, Transport and Industry and Trade of 19 December 1936 issued in agreement with the Minister of Treasury on amending the regulation of 24 July 1930 on the obligation to provide inland waterway transport means to the army in peacetime, *Journal of Laws* of 1937, No. 4, item 33. This act was replaced after the Second World War by the Act of 18 July 1950 on the provision of transport means to the army and public security services in peacetime, *Journal of Laws* No. 36, item 322.

<sup>13</sup> Regulation of the Minister of Military Affairs and the Minister of the Interior of 6 March 1930, issued in agreement with the Ministers of Transport, Treasury, Industry and Trade, and Public Works on the obligation to provide aircraft as means of transport for the army in peacetime, *Journal of Laws* No. 26, item 230. This act was replaced after World War II by the Act of 18 July 1950 on the provision of means of transport for the army and public security services in peacetime, *Journal of Laws* No. 36, item 322.

The personal scope of the regulation with regard to the obligation to provide these items applied to both natural persons and legal persons who had these items in their possession. The obligation to provide a given means of transport consisted in providing the entitled entities with a means of transport suitable for carrying persons and goods together with personnel capable of running the vehicle, and such personnel should maintain the vehicle in a usable condition for the duration of the obligation.

The obligation to provide means of transport should have been, as far as possible, imposed taking into account economic and professional relations and, in particular, the number of means of transport owned by each person. In addition, means of transport could not be claimed from persons residing at a distance of more than 10 km from the place to which the means of transport was to be delivered, unless exceptional reasons dictated that this distance might be exceeded.

The means of transport were provided on the basis of a demand document, which the Minister of Military Affairs and the military authorities and bodies authorised by the Minister of Military Affairs were entitled to issue. In the event of exceptional circumstances (e.g. a state of emergency or a natural disaster), the issuing of the demand document could be done directly by the beneficiary, provided that the order of departure or the marching document – authorising the use of means of transport – included the right to issue demand documents directly by the beneficiary.

As far as the procedure for requesting a means of transport is concerned, a person entitled to use a means of transport first requested it from the authority or body responsible for issuing an order to deliver a means of transport. Such orders were issued by executive boards of municipal and rural *gmina* districts, and in the former Russian partition this power was also held by village heads (*sottysi*) in urgent cases. On the basis of a demand document, the authorities or bodies appointed to issue an order wrote out an order to deliver the means of transport, which included data on the designation and number of means of transport, the designation of their operator, the time and place of delivery, the time of use, the designation of the rate of remuneration and an

instruction on the penal consequences in the event of failure to comply with the obligation to deliver the means of transport. Such an order was immediately delivered to the person indicated therein for execution.

The persons indicated in the order to fulfil the obligation to provide the means of transport were obliged to hand it over to the authorised person in a usable condition and at the time and place indicated in the order, together with the necessary personnel. As for the time that the means of transport remained at the authorised party's disposal, this could not exceed 24 hours, and retention of the means of transport beyond this time was only allowed in cases where it was not possible to obtain another means of transport in time, but even in this case the means of transport had to be returned after further 12 hours.

Failure to comply with the obligation to provide means of transport was punishable by a fine of up to 400 zloty or imprisonment for up to four weeks or both penalties together, unless the act had the features of a more severe offence. The adjudicating authority had the right to specify in its decision, in the case the fine could not be collected, a substitute penalty of arrest at its discretion, but not exceeding four weeks.

The district general administrative authorities were designated to adjudicate on criminal acts related to the obligation to provide means of transport. Within seven days of the delivery of the judgement, a request could be made through this authority for the case to be referred to the competent court – depending on the district, called the *powiat* court or court of the peace, which acted as the court of the first instance.

### 3. Land aircraft and seaplanes

Advances in air navigation that became apparent during World War I<sup>14</sup> made the military strategists of the time<sup>15</sup> realise that the importance of aviation for the defence of the country would increase every day. In the interwar period, it was already known that the increasing value of aviation in terms of communication and transport would be able to provide extremely valuable services not only to the armed forces, but also to the State blocked during the war or seriously threatened in the supply from outside.<sup>16</sup> Following these views, guidelines were formulated on the organisation of air defence,<sup>17</sup> which also contained an argument stressing that a constant anti-aircraft alert of the whole country's territory could not only burden the regular army and State bodies and the whole nation had to participate in it, which was to be reflected in the fact that, apart from the army, also the citizens were to be burdened with services for the benefit of active and passive air defence of the country.<sup>18</sup>

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<sup>14</sup> S. Sarnowski, *Żegluga powietrzna: Rozwój jej techniki i naukowe zasady lotu*, Warszawa 1922, pp. 124–129; M. Bujak, *Walka o panowanie w powietrzu w okresie pierwszej wojny światowej w świetle poglądów Sergiusza Abżóttowskiego*, "Almanach Historyczny" 2007, No. 9, pp. 131–141; A. Malinowski, *Lotnictwo bułgarskie w czasie pierwszej wojny światowej 1915–1918*, "Zeszyt Naukowy Muzeum Wojska" 2007, No. 20, pp. 29–35.

<sup>15</sup> A. Radomyski, *Poglądy wybranych teoretyków wojskowych na strategiczne uderzenia powietrzne*, "Zeszyty Naukowe Akademii Obrony Narodowej" 2011, No. 3(84), pp. 309–318; R. Bartnik and W. Marud, *Wybrane teorie i poglądy na użycie lotnictwa w Drugiej Rzeczypospolitej*, "Zeszyty Naukowe Akademii Obrony Narodowej" 2016, No. 2(103), pp. 175–194.

<sup>16</sup> See: T. Kmiecik, *Polskie lotnictwo wojskowe w okresie międzywojennym*, "Słupskie Studia Historyczne" 2009, No. 15, p. 206.

<sup>17</sup> See: S. Abżóttowski, *Lotnictwo w wojnie współczesnej*, Warszawa 1925, pp. 117–120; M. Andruszkiewicz, *Organizacja, uzbrojenie i wyposażenie wojsk obrony przeciwlotniczej w Polsce w latach 1919–1945*, "Zeszyty Naukowe Wyższej Szkoły Oficerskiej Wojsk Lądowych" 2007, No. 3(145), pp. 33–52.

<sup>18</sup> S. Abżóttowski, *Rozwój doktryny obrony powietrznej: obrona naziemna*, Warszawa 1937, pp. 46–47.

The interwar literature emphasised the importance of civil aviation. It was considered to be a reserve of military aviation and it was pointed out that it was an indicator of the degree of culture of the nation, as well as an important economic factor.<sup>19</sup> The obligation to provide means of transport in the form of aeroplanes for the army in peacetime was regulated on 6 March 1930. In the light of the regulations in question, “aeroplanes” were considered to be land aircraft or seaplanes or which were heavier than air and had their own propulsion.<sup>20</sup>

The burden of providing an aircraft understood in such a way with the necessary crew capable of operating it included the obligation to provide it with the crew, that is to say, the technical personnel necessary to operate the aircraft in question before a flight and to pilot it. However, the legislation provided that where the person obliged to deliver an aeroplane operated and piloted it himself and did not hold crew member certificates entitling him to fly an aeroplane with passengers, or did not hold such certificates at all, and it was not possible to provide a crew capable of operating and flying it, that obligation was limited to placing the aircraft itself at the disposal of the person entitled to the duties. It should be added that the cost of fuel and meals for the crew – if provided – was to be borne by the person obliged to provide the aircraft for the duration of the performance of the duty.<sup>21</sup>

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<sup>19</sup> Idem, *Lotnictwo w wojnie*, pp. 113–117. For more on the development of the aviation industry in pre-war Poland, see: R. Krawczyński, *Lotnictwo polskie w latach II Rzeczypospolitej*, “Annales Academiae Paedagogicae Cracoviensis. 24. Studia ad Educationem Defensoriam Pertinentia” 2005, No. 1, pp. 84–99; R. Szczepanik, *Rozwój przemysłu lotniczego w przedwojennej Polsce*, “Kwartalnik Bellona” 2016, No. 1, pp. 195–209.

<sup>20</sup> An important feature of the aircraft at the disposal of civilian entities was the fact that aeroplanes unsuitable for service at the front could be used for the tasks of transporting people, materials, orders, reports, etc., see: S. Ab-żółtowski, *Operacyjne użycie lotnictwa*, Warszawa 1932, p. 83; idem, *Lotnictwo komunikacyjne, przewozy i desanty powietrzne*, Warszawa 1935, pp. 18–27.

<sup>21</sup> For example, in the interwar period, a dinner in a restaurant for two people consisting of two soups, two main courses and a bottle of vodka cost about 20–25 zlotys, although a large dinner could also be eaten by two people for 2–3 zlotys, see: *Statystyka cen 1937* [Price Statistics 1937], p. 8.

The regulation in question obliged the Ministry of Transport to establish and maintain, in a permanent record, alphabetical lists of all aircraft owners according to the registration with individual national airports. These alphabetical lists were to be compiled by the Ministry on an annual basis, in order to ensure the order and uniformity of calling upon persons obliged to deliver aeroplanes.<sup>22</sup>

When issuing orders for the delivery of aeroplanes for the benefit of the army in peacetime, the sequence laid down in the order of delivery list had, of course, to be observed. Exceptions to this rule were permitted either for reasons which arose after the order of delivery lists had been drawn up or because of the item to be transported. In the latter case, the person exempted from providing an aeroplane had to be replaced by the person next on the order of delivery list or the person in possession of the relevant aeroplane. The person exempted, after termination of the exemption, was to be called upon to perform the duty immediately before the person which was obliged to perform the next duty according to the order of delivery list. The decision on matters of order and deviations from it – as I will discuss in a moment – was the responsibility of the authority issuing the delivery orders.

The order of delivery lists were to be drawn up for each subsequent year by 15 December of the preceding year at the latest and were to be published annually in *Monitor Polski* [Official Journal of the Republic of Poland]. The first order of delivery list was to be compiled and published within two months of the publication of the Regulation in question.

The provisions on the obligation to deliver aeroplanes to the army in peacetime envisaged a situation in which, for exceptional reasons due to the speed of the aeroplane as a means of transport, delivery of aeroplanes as a means of transport could be requested from all persons obliged to deliver an aeroplane who resided within a radius of 100 kilometres of the places to which the aeroplane was to be delivered.

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<sup>22</sup> These lists were promulgated in the form of regulations by the Minister of Transport in the years 1930 (twice), 1931, 1933, 1934 and 1935, while in the they appeared in the form of orders by the same Minister in the years 1936, 1937 and 1939.

Aeroplanes owned by state and local government officials, active-duty servicemen and members of the clergy were subject to the obligation to provide military contributions in peacetime, unless the competent authority decided that the aeroplanes were necessary for them to perform their service or religious services.

As I mentioned above, the use of means of transport – including aeroplanes – was authorised for military units on the basis of a marching document, and for persons in active military service on the basis of a written order. The Minister of Military Affairs or Commanders of Corps Districts with territorial responsibility decided about the need for these persons to use aeroplanes. In particular, these persons decided whether there was an official need to use an aeroplane as a means of transport for the official transport of people or goods. The transport of instruments, tools, and other materials that could be accommodated in an aeroplane, which did not pose a risk of damage to the aeroplane during the flight, and which were approved for transport in aeroplanes under the applicable regulations, was also considered official transport of goods or transport of goods in connection with an official journey.

Only persons in active military service were entitled to use the aeroplane as a means of transport on the basis of a written order, while the right to issue a demand document for the delivery of an aeroplane belonged to military units on the basis of a marching document or to individual persons in active military service. These demand documents had to be sent to the Ministry of Transport, which on the basis of these demand documents issued an order for the delivery of an aeroplane as a means of transport, drawn up in accordance with a prescribed specimen.

What should also be mentioned here were exceptional situations, when in peacetime the provision of aeroplanes as means of transport was required. During a state of emergency,<sup>23</sup> in cases

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<sup>23</sup> Act of 22 February 1937 on a state of emergency, Journal of Laws No. 17, item 108.

of natural disasters<sup>24</sup> and under orders for military assistance<sup>25</sup> military units, on the basis of a marching document and individual persons in active military service, were entitled to issue orders for the direct provision of aeroplanes, and in particular also for aeroplanes indispensable for the operation of public utility institutions, for maintaining continuous transport between different localities and for the operation of non-state public agricultural schools, private experimental stations and fields as well as animal farms registered with the Ministry of Agriculture. In addition, the above right relating to requirements for aircraft applied to those owned or possessed by municipal associations.

In the case of the above-mentioned exceptional situations, the entitled person had to ask the operator of the airport or the person in charge of the airport on behalf of the state authority where the aeroplane to be provided was located, to deliver the aeroplane, presenting his identification document, which was the departure order. On presentation of the order, the airport operator or the person in charge of the airport on behalf of the state authorities issued a written order for delivery of the aircraft. This order was drawn up according to a prescribed specimen. The airport operator or the person supervising the airport on behalf of the state authorities was obliged to send two reports about the order issued by him, one to the Ministry of Transport and the other to the authority issuing the departure order. When assigning aeroplanes to services, the airport operator or the person supervising the airport

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<sup>24</sup> Act of 13 March 1934 on protection against fire and other disasters, Journal of Laws No. 41, item 365; Regulation of the Minister of Internal Affairs of 6 April 1939 on the duties of the population in cases of fire or other disasters, Journal of Laws No. 37, item 242.

<sup>25</sup> Decree of 2 January 1919 on the use of the army in exceptional cases, Journal of Laws of the Polish State, No. 1, item 80. In accordance with article 8 of the Decree of the Council of Ministers of 18 April 1919 on the manner of using the army to secure public order, Journal of Laws of the Polish State, No. 35, item 276, civil authorities, after summoning the army, were obliged to make the necessary arrangements to transport it to its destination as soon as possible, and the costs of transporting the army were to be borne by the State Treasury for the account of the authority which requested the intervention of the army.

on behalf of the state authorities should have selected from the order of delivery list, published in *Monitor Polski*, those aeroplanes whose permanent home port was at the airport in his charge.

#### 4. Inland waterway vessels

Inland navigation is the oldest branch of transport, making it possible to transport large quantities of goods, people and – which is the most interesting for us from the point of view of this analysis – military equipment, over long distances with a relatively small expenditure of resources.<sup>26</sup> Thus, the possibility of inland waterway transport has always been of vital importance in the system of both civil and military economics. After Poland regained its independence in 1918, apart from the establishment of the inland waterway administration, changes in terms of the upgrading of rivers and canals, compared to the period of the partitions were visible only in the areas of the former Prussian partition, while in the Russian partition (except for the Augustów Canal) and the Austrian partition the condition of waterways was not improved, and the amount of cargo transported in Poland by waterways was much fewer tonne-kilometres than in western Europe.<sup>27</sup>

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<sup>26</sup> The special economic and military importance of the rivers in the Polish lands was recognized during the period of the Duchy of Warsaw, resulting in the issuance of a number of acts aimed at improving navigation on these rivers, the Central Archives of Historical Records (CAHR), fonds no. 176, *Rada Ministrów Księstwa Warszawskiego* ["Council of Ministers of the Duchy of Warsaw"], ref. no. 135, cards 1–51; CAHR, fonds no. 175, *Rada Stanu i Rada Ministrów Księstwa Warszawskiego* ["Council of State and Council of Ministers of the Duchy of Warsaw"], ref. 195, cards 1–35. Cf. W. Surowiecki, *O Rzekach y Spławach Kraiów Xięstwa Warszawskiego z Zlecenia JW. Łubieńskiego Ministra Sprawiedliwości*, Warszawa 1811, pp. 15–205; K. Karczyński, *Żegluga śródlądowa w Królestwie Polskim (1815–1830) a polityka gospodarcza ministra skarbu, księcia Franciszka Ksawerego Druckiego-Lubeckiego*, "Progress. Journal of Young Researchers" 2018, No. 3, pp. 9–25.

<sup>27</sup> It should be stressed that the German economy, unlike the Polish economy, made intensive use of waterways. In 1935, Germany had 13,000 km of waterways, which were mostly used to transport bulk cargo, e.g. coal, see: M. Jabłonowski, *Wobec zagrożenia*, p. 290.

The obligation to provide inland waterway vessels to the army in peacetime was regulated by the Regulation of 24 July 1930, which entered into force on 13 February 1931. In the light of its provisions, inland waterway vessels were defined as all ships and boats capable of transporting persons and goods, with or without mechanical propulsion,<sup>28</sup> in particular: (i) inland waterway ships; (ii) inland waterway boats with own mechanical propulsion; (iii) inland waterway boats (ferries, rafts, canal boats, etc.) without mechanical propulsion, with an area of 20 m<sup>2</sup> (greatest length multiplied by greatest width) or more than 20 m<sup>2</sup>; and (iv) inland waterway boats without mechanical propulsion, with an area of less than 20 m<sup>2</sup>.

It should be recalled here that in the interwar period in Poland, ships and boats were subject to registration, with the exception of state-owned vessels registered in a seaport.<sup>29</sup> The registration was carried out by the State Water Board in whose area the berth of the ship or boat chosen by the owner (possessor) was located. Each State Water Board also kept books for the registration of ships and boats according to prescribed models, separately for self-propelled ships and boats and separately for ships and boats without propulsion. The owner (possessor) of a ship or boat was subject to annual notification before 1 April each year. Ships and boats were entered in a book and a registration document was issued to the applicant.

The burden of supplying an inland waterway means of transport also included the obligation to provide the necessary crew, i.e. personnel for operating the means of transport. If the owner (possessor) of the watercraft was not able to provide the necessary

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<sup>28</sup> Military regulations distinguished: rafts, scows and ferries, ships, steam vessels and mechanical boats, see: Instruction of the Minister of Military Affairs of 18 April 1930 on military inland navigation. 1931. Warszawa: Ministry of Military Affairs.

<sup>29</sup> Regulation of the Minister of Transport of 22 June 1935 issued in agreement with the Ministers of Internal Affairs and Military Affairs on the registration of inland navigation ships and boats, Journal of Laws No. 50, item 330. This act was repealed by the Act of 7 March 1950 on navigation and floating on inland waterways, Journal of Laws No. 26, item 182.

personnel, he was obliged to put the unmanned watercraft at the disposal of an authorised person. It should be added that the cost of maintaining the watercraft in a usable condition, the cost of fuel and the cost of feeding the crew provided by the owner (possessor) of the watercraft for the duration of the obligation to provide the contribution, was borne by the person obliged to provide the watercraft.

The demand for inland waterway vessels was reported by commanders of corps districts or other military authorities of equal or higher rank responsible for a given area. The need for other means of inland waterway transport was decided by the commander (commander, head) of the administrative unit (of equal or higher rank responsible for a given area) These authorities also decided whether there was an official journey, official transport of goods, or transport of persons or goods in connection with an official journey.

The marching document for military units was a written order to make a certain journey, or to transport people or goods, issued by the commander (commandant, manager) who decided on the need to use these means of transport. An appropriate clause was placed on the document, containing the rank, name and surname of the commander, designation of the regiment, battalion, etc., indicating that the possessor was entitled together with his unit to use the means of transport provided for by the regulation in question. This clause was signed by an authorised commander (commandant, manager) and stamped with an official seal. For the surveying branches of the Military Geographical Institute, established in 1919,<sup>30</sup> the marching document was, as far as water means of transport of inland navigation were concerned, excluding ships, the military geographic service card.

The regulation in question provided that individuals in active military service could use means of transport on the basis of a travel order, in which the commanding officer (commander,

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<sup>30</sup> The Institute was an independent institution subordinate in organisational terms to the Chief of the General Staff of the Polish Army and its main task was to prepare and publish military topographic maps.

manager) should have included a clause analogous to that mentioned above, and which also bore an official signature and seal. For officers of the military geographic service, the travel order was, as far as inland waterway means of transport excluding ships were concerned, a card of the military geographic service. Both the marching document and the travel order or a card of the military geographical service, had the status of an identification document for the authorities to whom the need was declared and for the holders of the assigned watercraft.

In addition to the Minister of Military Affairs, commanders authorised by him (commanders, managers, higher commanders and military authorities and bodies) had the right to issue demand documents for the delivery of an inland water transport means. These entities were also entitled to authorise, on marching documents, travel orders or military geographic service cards, to directly issue demand documents for water transport means, also during a state of emergency, in cases of natural disasters, and in cases of ordering military assistance, i.e. in situations analogous to the aforementioned obligation to supply aeroplanes.

The authorities authorised to order the provision of water transport means were: executive boards of municipal and rural *gminas*, and in urgent cases, in the indicated voivodeships (voivodeships of Warsaw, Kielce, Lublin, Łódź, Białystok, Nowogródek, Polesie, Volhynia and Vilnius), also *sołtysi* (village heads).

The entity entitled to receive a means of transport, in the event of such circumstances as a state of emergency, natural disaster or order for military assistance, could apply directly to the holder of the means of transport with a request for its delivery. At the same time, the entitled entity issued a written order to deliver the means of transport. In addition to this, however, upon request by the person called upon to provide means of transport, an identity document had to be presented, i.e. a marching document, a travel order or a military geographic service card.

## 5. Remuneration and compensation

The last issue closely related to the obligation to supply means of transport in the form of aeroplanes and watercraft is that relating to the remuneration for their supply and possible compensation for destruction or damage to the means of transport. This follows, of course, from the fact that, the consequence of a loss is the obligation to compensate it.<sup>31</sup> The relevant regulations stipulated that the rates due for this remuneration were to be established in accordance with the aforementioned Regulation of the President of the Republic of Poland of 12 November 1927 and the opinion of the Ministry of Transport had to be heard beforehand. They were to be published for individual *powiat* districts in the official journal of the voivodeships. In addition to the general provisions regarding rates of remuneration for the means of transport provided, there were also those specifically provided for in the Regulation. According to these specific provisions, when determining the rates of remuneration, account had to be taken of the actual costs of maintaining and operating the means of transport and of the fuel used for the time from, in the case of an aeroplane, its departure to the designated place of delivery of that aeroplane until its return to the airport from which it had departed, as well as the costs associated with the arrival of crew members at the place of departure of the aeroplane and their return from that place to their place of residence. Similarly, the same regulation applied to water means of transport. These rates were calculated taking into account only the cost of using the means of transport and any fuel provided by its possessor. The remuneration for fulfilling the obligation to provide means of transport was charged to the budget of the Ministry of Military Affairs.

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<sup>31</sup> J. Boć, *Wyrównanie strat wynikłych z legalnych działań administracji*, Wrocław 1971, pp. 95, 115–133 and 169–187. Cf. E. Bagińska and J. Parachomiuk, *Odpowiedzialność odszkodowawcza w administracji*, in: *System prawa administracyjnego*, Vol. 12, eds. R. Hauser, Z. Niewiadomski, A. Wróbel, Warszawa 2010, pp. 419–431.

If the user of the aeroplane paid remuneration for its use, the remuneration was paid by the payer of the formation to which the user belonged. This was done on the basis of a receipt or a travel order, unless, in special cases, the Minister of Military Affairs ordered otherwise. However, if the user of the aeroplane did not pay the remuneration, he was obliged to immediately report it to his superior authority, which caused the payer to immediately transfer the amount due to the district general administration authority competent for the place of residence of the provider.

As far as the liability of recipients in the event of damage to or destruction of a delivered aeroplane is concerned, the district general administrative authority in the territory of which the damage or destruction occurred, immediately notified, in the case of an aeroplane, the Ministry of Transport, in the fastest way (by telephone or telegraph), and in the case of watercraft, the authority with which the vessel was registered. These authorities then issued orders with the aim of ascertaining the degree of damage or destruction of the claims for compensation for loss, destruction or damage to an aeroplane were to be submitted, within one year from the date of the accident, to the Ministry of Transport through the *powiat* authority of general administration responsible for a given area. The claimant was obliged to attach to the notification the order of delivery of the aeroplane as well as a confirmation that it had been used. In order to determine the circumstances on which the decision was to be based, the *powiat* general administration authority held oral proceedings in accordance with Articles 45–48 of the Decree of the President of the Republic of Poland on administrative proceedings.<sup>32</sup> The payment of compensation for destruction, loss or damage to the means of transport was charged to the budget of the Ministry of Military Affairs.

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<sup>32</sup> Regulation of the President of the Republic of Poland of 22 March 1928 on administrative proceedings, Journal of Laws No. 36, item 341.

## 6. Conclusion

To sum up the analysis, several points should be noted. First of all, it should be remembered that the obligation to provide means of transport for the army in peacetime also resulted from other legal acts than those I have cited above.<sup>33</sup> In the event of calling up officers and privates of the reserve and *levée en masse* for additional military exercises or for military service, transport companies maintaining permanent or seasonal transport between individual localities were obliged, upon the request of the authorities, to transport the said persons on credit along the relevant transport line. In addition, if national security required it, the Council of Ministers could, at the request of the Minister of Military Affairs, also order the transport on credit of military equipment by the said companies. In the event of the above-mentioned situation, the right to issue an order for travel (transport) was vested in the *powiat* military draft officer and the commander (commandant, manager) of the military unit (establishment).<sup>34</sup>

Secondly, it should be pointed out that the system of public burdens in the form of an obligation to provide means of transport for the army in the interwar period – both in peacetime (including a state of emergency and natural disaster) and in the event of an outbreak of war or an announcement of mobilisation – was not the only burden of this nature. It should be remembered that in 1920 an obligation was introduced for a period of 5 years to provide transport for the benefit of civil public entities, namely for

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<sup>33</sup> Act of 7 November 1931 on the extraordinary transport of officers and privates of the reserve and *levée en masse* and military equipment in peacetime, Journal of Laws No. 105, item 811.

<sup>34</sup> Regulation of the Minister of Military Affairs of 3 September 1932, issued in agreement with the Ministers of Internal Affairs, Industry and Trade, Treasury and Transport on the implementation of the Act of 7 November 1931 on the extraordinary transport of officers and privates of the reserve and *levée en masse* and military equipment in peacetime, Journal of Laws No. 97, item 835.

the construction and maintenance of public roads and bridges.<sup>35</sup> In cases where the competent road administration authorities were not able, by means of a voluntary agreement, obtain the necessary amount of means of transport for the construction and maintenance of public roads and bridges, or where their owners demanded payment for their hire which was excessive in relation to the actual costs of the maintenance of the means of transport, the competent *starosta* ordered, at the request of the said authorities after hearing the opinion of the local government assembly (*powiat* council), and in towns separated from the *powiat*<sup>36</sup> after hearing the opinion of the municipal council, the compulsory provision of means of transport against remuneration.<sup>37</sup>

Finally, it is necessary to refer to the material situation of the Polish armed forces.<sup>38</sup> As far as inland navigation is concerned, it played an insignificant military role. Air navigation, on the other hand, including the air force, was to play a key role in the military operations of that period. Unfortunately, the deficiencies in the Polish armed forces proved decisive in the defeat of the 1939 September campaign. Indeed, already before the war the situation in the Polish army was known and commented on.<sup>39</sup> The Germans had supremacy in the air and in terms of ground transport the disproportion in operational and strategic mobility was similar.<sup>40</sup> This of course reinforced the disproportion of military power and highlighted Poland's military weakness, the cause of which lay in the country's economic underdevelopment and civilisational

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<sup>35</sup> Act of 10 December 1920 on the provision of means of transport for the construction and maintenance of roads and bridges, Journal of Laws No. 6, item 31.

<sup>36</sup> See: M. Kotulski, *Samorząd terytorialny w dwudziestoleciu międzywojennym*, "Acta Universitatis Wratislaviensis. Prawo" 2019, No. 327, pp. 140–141.

<sup>37</sup> Cf. ruling of the Supreme Court of 1 April 1932 r., ref. no. II K 945/31.

<sup>38</sup> See: P.A. Tusiński, *Ustawodawstwo polskie w latach 1935–1939 wobec zagrożenia wojennego*, "Niepodległość i Pamięć" 2009, No. 16/2(30), pp. 5–39.

<sup>39</sup> See: *Studium planu strategicznego Polski przeciw Niemcom Kutrzeby i Mossora* [Study of the Polish Strategic Plan against Germany by Kutrzeba and Mossor], eds. M. Jabłonowski and P. Stawecki, Warszawa 1987, pp. 39–63.

<sup>40</sup> See: *ibidem*, pp. 48–50.

backwardness,<sup>41</sup> but also resulted from the mistakes and negligence of the political and military authorities of the time.<sup>42</sup> In view of the above, it should be stated that Poland's military defeat in September 1939 was the result of many years of mistakes made throughout the interwar period by those in power in various fields of state activity.

## SUMMARY

The peacetime duty to provide means  
of transport for the army on the example of inland  
waterway vessels and aircraft.  
The case of interwar Poland

This article analyses the institution of administrative duties which in the interwar period were imposed on individuals in the public interest in order to perform certain tasks belonging to public administration – in this case, the administration of the armed forces. These obligations consisted in providing the army in peacetime with means of transport owned by certain entities, which were deemed necessary by the military authorities in order to perform tasks arising from the responsibilities granted to them. The analysis made by the author was carried out on the example of the obligation to provide the army with transport means in the form of water means of inland navigation and aircraft.

**Keywords:** Second Polish Republic; administrative law; military administration; military economics; public burdens; inland navigation; air navigation; aeroplane

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<sup>41</sup> See: P. Stawecki, *Studium planu strategicznego Polski przeciw Niemcom Tadeusza Kutrzeby i Stefana Mossora*, "Kwartalnik Historyczny" 1991, No. 1(98), p. 75. Cf. M. Jabłonowski, op.cit., pp. 296–299; M.P. Deszczyński, *Import sprzętu wojskowego przez Polskę w latach 1921–1939 (wprowadzenie do zagadnienia)*, "Kwartalnik Historyczny" 2012, No. 3(119), pp. 507–540.

<sup>42</sup> S. Jaczyński, *Bezpieczeństwo militarne II Rzeczypospolitej – aspekty wewnętrzne*, "Doctrina. Studia Społeczno-Polityczne" 2016, No. 13, p. 72.

## STRESZCZENIE

Obowiązek dostarczania w czasie pokoju  
środków przewozowych na rzecz wojska na przykładzie wodnych  
środków żeglugi śródlądowej i statków powietrznych.

Kazus międzywojennej Polski

W niniejszym artykule poddano analizie instytucję obowiązków administracyjnych, które w okresie międzywojennym nakładane były na jednostki w interesie publicznym w celu wykonania określonych zadań należących do administracji publicznej, w tym przypadku – administracji sił zbrojnych. Obowiązki te polegały na dostarczeniu wojsku w czasie pokoju będących w posiadaniu określonych podmiotów środków transportowych, które uznane zostały przez władze wojskowe za niezbędne do realizacji zadań wynikających z przyznanych im kompetencji. Dokonana przez autora analiza przeprowadzona została na przykładzie obowiązku dostarczania na rzecz wojska środków przewozowych w postaci wodnych środków żeglugi śródlądowej i statków powietrznych.

**Słowa kluczowe:** II Rzeczpospolita; prawo administracyjne; administracja wojskowa; ekonomika wojskowa; ciężary publiczne; żegluga śródlądowa; żegluga powietrzna; samolot

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