

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

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Summary. This analysis is related to the system of civilians' wartime contributions for the defence of the state in the Second Polish Republic. The system of wartime contributions gave the State the right to demand these contributions from the population, and in particular to demand handing over to the State, against payment, property or the right to use movable and immovable property directly or indirectly needed for the purposes of supplying the army and defending the State, but only when a war broke out or when partial or general mobilisation was ordered. The author analyses only one type of the system of wartime contributions understood in this way, namely contributions involving the obligation to hand over draught animals and carts upon the announcement of mobilisation or the outbreak of war. The article draws attention to the first legal regulations in the field of wartime contributions in force on the territory of a reborn Polish State, and in particular to the first legal acts relating to handing over draught animals and carts.

Key words: Second Polish Republic, military administration, mobilisation systems, wartime contributions, State defence

INTRODUCTION

The subject of my discussion is related to military mobilisation systems, which in the 1920s and 1930s, as in previous centuries, played a significant role in the organisation of military administration and military operations. Mobilisation of the armed forces, as early as the beginning of the 19th century, meant their transition from the static state in which they were in their garrisons during peacetime to the state of movement required by the field conditions of war time, which was connected with the mobilisation of troops by simultaneously equipping the tactical and operational unions with field supply bodies, means of transport and evacuation as well as sanitary service, which were unnecessary in peacetime conditions.

There is no doubt that the needs of the fighting army are so great that they can only be met if all the forces of the State, including those outside the army, are used to supply the army. This is of course due to the fact that the supply of the army is often not possible through the army's own actions – its own resources are often insufficient. Therefore, the army, by forcibly collecting objects necessary for its operations, obliges the citizens to make certain contributions to the army or the state. This means that when a war breaks out or a mobilisation is announ-

ced, the state and the army reach out to the material resources and services of the inhabitants of the threatened state [Duch 1924, 261–62]. As Cz. Berman emphasised, from the twentieth century, when new systems of organisation and supplementation of troops were established, the focus of mobilisation, which had previously been the mobilisation of troops, was shifted to the activation of reserves necessary for the development of mass armies and their supplementation and supply during the war [Berman 1964, 5–6].

For the purposes of this analysis, a mobilisation system will be understood as a set of organisational, planning and training undertakings concerning the preparation of military units and personnel reserves to perform tasks related to the mobilisation of the armed forces, including the collection from the national economy of a fixed amount of means of transport, equipment and materials which serve to satisfy the needs of the army [Koch 1980, 4–20]. As A. Saulewicz noted, “the performance of the defensive function of the State creates, in certain situations, the necessity for the State to unilaterally enter the sphere of subjective rights of the owner (possessor) or holder of movables or real estate. This necessity is, or at least can be – the author emphasises – predicted in advance, and its subjective, objective and temporal limits are defined by the regulations governing individual fields of defence, including the matters of the armed forces” [Saulewicz 1974, 476].

Due to the narrowed nature of the discussion, I will focus my attention only on one of the elements of a mobilisation system understood in this way, namely the obligation to supply the army with material resources in the form of draught animals and carts in the interwar period in the area of the reborn Polish State.¹

As we know, in the initial period of the Polish statehood – by which I mean primarily the period of the estate monarchy, but also in subsequent centuries, the obligations the population living in the area of the then State were universal. Military duties and obligations concerned both knights and noblemen [Zajączkowski 1978c, 61–88; Szymczak 2017, 57–81], towns and burghers,² as well as surfs (peasants).³ These obligations continued until modern times and in the 19th and 20th

¹ For more about the reconstruction of the Polish State after the I World War, see Konarski 2018, 167–81; Idem 2019a, 151–66.

² The military obligations of this group included the personal participation in war expeditions and obligations of a military nature, involving contributions in the form of sending carts and horses, making cash payments, as well as all kind of obligations related to the preparation and maintenance of the defences of towns, see Szczygielski 1960, 425–57; Zajączkowski 1978a, 3–44.

³ For more about peasants from royal estates recruited to military units, see *inter alia* the Constitution of the Warsaw General Sejm of 1578, *Volumina Legum*, vol. II, Petersburg 1859, p. 190 [henceforth cited as: VL]; the Constitution of the Warsaw General Sejm of 1590, VL II, p. 309; the Constitution of the Warsaw General Sejm of 1595, VL II, p. 355; the Constitutions of the Warsaw General Sejm 1616, VL III, p. 133–34. Village heads [*sołtysi*] constituted, to a certain degree, a separate group of the rural community in Poland until the middle of the 15th century, which meant that their distinctness was due to the different legal, economic and sometimes social situation, as many of the village heads came from the Noble Estate. Their most important wartime obligation was participation in war expeditions on horseback, although sometimes they were also obliged to deliver carts – just like the rural population was, or to give a horse of appropriate value, or to send one soldier in their place, for more, see Zajączkowski 1978b, 23–59.

centuries were an important element of the mobilisation system for the benefit of the army.⁴

The regaining independence by Poland, after many years of partitions, in 1918⁵ did not, however, mean for the Polish nation “forgetting the great sacrifices in the reality of war” [Podolska–Meducka 2011, 24], because there were still intense fights on the State borders, and in February 1919 a conflict with Bolshevik Russia began.⁶ In view of the above, before I move on to the issues related to the Polish legislation in question as defined in the title of this analysis, I must say a few words about the civilians’ contributions to the war effort in 1919–1921.

1. THE SYSTEM OF CIVILIANS’ WARTIME CONTRIBUTIONS IN POLAND BETWEEN 1919 AND 1921

The basis of the system of wartime contributions, which gave the State the right to demand these contributions from the population, and in particular handing over to the State, in return for payment, of property or the right to use movable and immovable property directly or indirectly needed for the purposes of supplying the army and defending the State, but only when war broke out or when partial or general mobilisation was ordered, was the Act on Wartime Material Contributions adopted on 11 April 1919.⁷ The Act was to be in force provisionally for a period of one year,⁸ and when it became effective, all other acts and regulations on requisitions and wartime contributions ceased to be in force, provided, however, that these were requisitions and wartime to be ordered from the moment the Act entered into force.

The introduction of the obligation to make wartime contributions, the esta-

⁴ These obligations were regulated, *inter alia*, in the period of the Duchy of Warsaw, see Konarski 2019b, 113–35. For more about the legislation concerning wartime contributions in early 20th century in Germany, Austria and Russia, see Krzemicki 1912; *O świadczeniach wojennych. Uwagi do ustawy o świadczeniach wojennych z dnia 26 grudnia 1912 roku*, Lwów 1912; Stefczyk 1915; *Świadczenia i szkody wojenne. Opinia Komitetu Odbudowy Wsi Miast w Krakowie*, Kraków 1916; Duch 1924, 262–65; Idem 1925, 29–31; Socha 1993, 185–97; Podolska–Meducka 2008, 111–13.

⁵ For more on the development of broadly understood military law in Poland in the first years after Poland regained independence, see Stawecki 1978, 31–63.

⁶ The literature on this conflict is extremely rich, and there is no need to refer to it here. However, among numerous recent publications, attention should be drawn to the publication of L. Dubel, where the author stresses that this war was not generally in the political interest of both parties to the conflict and neither of them benefited from it; moreover, however, under the Bolsheviks’ rule it was not, contrary to appearances, based on the assumption that it was necessary to bring the revolution on its bayonets to Western Europe, but was largely defensive in nature [Dubel 2019, 41–60].

⁷ The Act of 11 April 1919 on Material Wartime Contributions, Journal of Laws of the Polish State No. 32, item 264 [henceforth cited as: JLPS]. The regulation introducing wartime obligations, as of 1 May 1919, was issued on 29 April, see the Regulation on Introducing Wartime Obligations, “Monitor Polski” No. 98 [henceforth cited as: MP].

⁸ When the Act expired, an act reinstating it was passed as early as on 23 April 1920, see the Act of 23 April 1920 on the Reinstatement and Partial Amendment of the Act of 11 April 1919 on Material Wartime Contributions, Journal of Laws No. 37, item 212.

blishment of the dates for the creation and termination of the obligation, as well as specification of the objects which were subject to compulsory provision, was effected by a joint Regulation of the Minister of Military Affairs and the Minister of Internal Affairs, which was issued on 29 April 1919.⁹ In accordance with the Regulation, compulsory provision included, which is of most interest to us from the point of view of the analysis in question, movable property, that is to say, above all, draught animals and all means of transport, regardless of the force they were moved by, together with all the tools, equipment and plants for necessary for their use.¹⁰

On the basis of the provisions of the Act of 11 April 1919, the Main Office of Army Supplies¹¹ was established at the Ministry of Military Affairs. This Office was responsible for centralising and covering the general needs of the army. The demand for wartime contributions was made by means of requisition orders, issued by competent administrative offices on the basis on documents specifying needs, issued by military authorities, i.e. by the Minister of Military Affairs and by bodies authorised by him.¹²

⁹ The Regulation of the Ministry of Military Affairs and the Ministry of Internal Affairs on introducing wartime obligations, MP 1919, No. 98.

¹⁰ This Regulation was complemented by two Regulations issued on 1 November 1919 but they were not related to the issues that are of interest to us here, see the Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on the introduction of wartime obligations (complementing the Regulation of 29 April – MP No. 98), National Library of Poland, ref. no. DŹS IA 6a6 Cim.; the Regulation of the Minister of Internal Affairs on submitting declarations on the possession of items necessary to supply the army with clothing, National Library of Poland, ref. no. DŹS IA 6a6 Cim. The next order for compulsory provision of the aforementioned items took place on 22 March 1920 by way of a Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on introducing wartime obligations, Journal of Laws No. 30.

¹¹ The Act of 11 April 1919 on the Creation of the Central Office of Army Supplies, JLPS No. 32, item 265.

¹² It should be remembered, however, that as a result of warfare, the State Defence Council issued a regulation in the light of which, in the event of a war threat to the territory of the State, the Minister of Internal Affairs, at the request of the Minister of Military Affairs, was authorised to hand over the executive authority to military commanders in the areas at risk as regards securing and maintaining public order and peace and to issue orders and prohibitions aimed at maintaining the security of the State and the army, whereas only the Council of Ministers had the power to repeal the regulation of the Minister of Military Affairs on handing over executive authority to military commanders, see the Regulation of the State Defence Council of 15 July 1920 on issuing direct requisition orders by military authorities (complementing the Act of 28 October 1919), Journal of Laws No. 62, item 407; the Regulation of the State Defence Council of 20 July 1920 on obligating the population to make personal and material contributions for evacuation, Journal of Laws No 64, item 425; the Regulation of the State Defence Council of 20 July 1920 on the authorisation of the Minister of Internal Affairs to partially transfer the executive power to military authorities, Journal of Laws No. 64, item 427; the implementing acts of the Minister of Internal Affairs of 4 August 1920 to the Regulation of the Minister of the State Defence Council of 20 July 1920 on obligating the population to make personal and material contributions for evacuation, Journal of Laws No. 71, item 488. In areas considered by the Ministry of Military Affairs as endangered by war, a military governor could be appointed as Military Commander once executive power is transferred to such areas. For the broad powers vested in the military governor, see the Regulation of the State Defence Council of 6 August 1920 on the establishment of the state of siege, Journal of Laws No. 69, item 460. For more

As regards remuneration for wartime contributions, the Act on Material War-time Contributions provided that the general rule was immediate remuneration in the form of cash paid at prices set by the Ministry of Military Affairs in consultation with the Ministry of Treasury and other ministries concerned, on the basis of an opinion issued by representatives of agricultural, handicraft, commercial and industrial organisations. If payment was not possible immediately, possessors of the items to be provided were to receive requisition receipts whose model was prepared by the Ministry of Military Affairs.¹³ The payment on the basis of requisition receipts was to be made by the commissariat of the nearest general military district. On the other hand, in the event of non-payment, no one could be held liable to fulfil the obligation to make wartime contributions if the requisition receipt was not given to him.¹⁴ Notification of requisition receipts or claims for wartime contributions made was to take place, under pain of losing the claim, within 6 months from the date of cessation of the universal obligation to make wartime contributions.

If the military authorities or military units were unable to cover their needs by means of direct purchase or rental, they could ask the administrative authorities to order the population to deliver the necessary items.¹⁵

The owner of items subject to wartime obligations, who did not receive payment for their contribution or for any reason felt aggrieved, had the right of complaint to the Regional Requisition Committee at the Military District Headquarters within one month, while the decision of the Committee was also subject to appeal to the Main Requisition Committee at the Ministry of Military Affairs within one month.¹⁶ These committees, together with the *powiat* district (muni-

about the legislative activity of the State Defence Council, see Marszałek 1995, 116–42; Idem 2011, 154–59.

¹³ Journal of Military Orders of the Minister of Military Affairs of 1919, No. 58, item 1855 [henceforth cited as: JMO]; JMO of 1920 No. 48, item 1002.

¹⁴ On the payment of requisitions covered by informal receipts, see JMO 1920, No. 40, item 868.

¹⁵ The authorities and bodies entitled to demand wartime contributions, entities on which wartime contributions were to be imposed, the places, date and manner of the provision, and the issues of exceeding the powers were specified in the executive Regulation of the Minister of Military Affairs and the Minister of Internal Affairs to the Act on Material War-time Contributions of 11 April 1919, Journal of Laws No. 32, item 264. The provisions were specified in more detail in the executive regulation of the Minister of Military Affairs and the Minister of Internal Affairs to the Act of War-time Contributions of 11 April 1919, Journal of Laws No. 32, item 264; MP 1919, no. 100–101. During the Polish-Bolshevik war in 1920 there were known examples of supplying horses, and there were very few cases of refusal to supply horses, see Juskiewicz 1997, 276–77.

¹⁶ Executive Regulation of the Minister of Military Affairs and the Minister of Internal Affairs of 12 December 1919 to Art. 10, sect. 3, point 11 and 12 of the Act of 11 April 1919 on Material War-time Contributions, concerning the establishment of Regional Requisition Committees and the Main Requisition Committee. The rules of procedure of Regional Requisition Committees and the Main Requisition Committee were regulated on 1 October 1920, see the Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on rules of procedure of Regional Requisition Committees and the Main Requisition Committee, MP 1920, No. 270. Cf. Zdziechowski 1928, 22–25.

cial) wartime contributions committees,¹⁷ were collegiate bodies whose purpose was to assist in the enforcement of contributions or to resolve disputed issues arising from the enforcement.¹⁸

In the situation of continuous shortage of horses, contributions in kind in the form of collection of horses were regulated separately during the analysed period of time.¹⁹ The Regulation in question governed in detail the issues of distribution of demand, exemptions from collection, places and dates of collection, the responsibilities of *gmina* authorities, the organisation of the horse collection committee and the scope of its activities, the remuneration and liability of its members and the remuneration for horses (price and their designation),²⁰ the collection of horses and the remuneration for them. Due to the limited nature of this analysis it is not possible address all these issues but I have to point out several threads.

In accordance with the provisions of the regulation, the distribution of the quantity of horses required by the army for individual *powiat* districts was made by the Ministry of Agriculture and State Estates in consultation with the Ministry of Military Affairs, while the distribution among *gmina* districts of the horse contingent designated for a given *powiat* district was to be made by the *powiat* horse collection committees after hearing the representatives of the *powiat*.²¹

The Regulation established a broad catalogue of horses that were exempt from collection. In the light of the provisions of the Regulation, the following were not subject to collection: (1) horses under 4 and over 12 years of age; (2) horses from State stud farms (*dépôt* and stallion stations); (3) horses belonging to state and local government authorities, according to establishments approved by the respective ministries or by the authorities in accordance with the organisational provi-

¹⁷ The appointment and remuneration of members of *powiat* (municipal) committees was regulated by the regulation of the Minister of Military Affairs and the Minister of Internal Affairs of 17 May 1919 on *powiat* committees of wartime contributions, MP 1919, No. 118.

¹⁸ For more about the problems of the requisition practice and the activity of requisition committees after the war, and about appeals against the rulings of the Main Requisition Committee to the Supreme Administrative Tribunal, see Podolska–Meducka 2011, 324–88.

¹⁹ Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on the collection of horses, MP 1919, No. 182. This Regulation was then slightly changed by the Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on the amendment of the Regulation on horse collection of 26 July 1919, MP 1920, No. 156.

²⁰ In justified cases, the committees could pay more or less for individual horses without, however, exceeding the limits of their own budget, see JMO 1919, No. 42, item 1356. The fixed prices were in force from 31 October 1919, and the Decree of 21 January 1920 extended the validity of these prices until 31 March 1920, see the Regulation of the Minister of Military Affairs and the Minister of Internal Affairs on the extension of the validity of the prices laid down in Art. VII of the regulation on the collection of horses of 26 July 1919, Journal of Laws of 1920, No. 21, item 116. Cf. Borek 2011, 44–45.

²¹ For more about the composition of the committees and their tasks, see the Regulation of the Ministry of Military Affairs and the Ministry of Internal Affairs on *Powiat* Committees, MP 1919, No. 118; executive Regulation of the Minister of Military Affairs and the Minister of Internal Affairs to Art. 10, sect. 3, point 11 and 12 of the Act of 11 April 1919 on Material Wartime Contributions concerning the establishment of the Main and Regional Requisition Committees, Journal of Laws No. 97, item 514; JMO 1919, No. 84, item 2983; JMO 1919, No. 97, item 4135.

sions created for this purpose; (4) private horses needed for transporting mail, in accordance with the establishment approved by the Post Offices and Telegraphs Directorate; (5) horses for police and sanitary purposes and for fire brigades, according to establishments approved by the respective ministries or by the authorities in accordance with the organisational provisions created for this purpose; (6) horses belonging to institutions and public utility companies which were certified by the Ministry of Agriculture and Public Estates as being in need of a certain number of horses; (7) horses belonging to embassies and consulates and intended for the personal use of those persons who, according to international law,²² had the right of extraterritoriality²³; (8) horses which were needed by clergymen, doctors and veterinarians in connection with the exercise of their profession in the countryside, but no more than 2 horses per parish or per doctor or veterinarian; (9) horses working in mines on a permanent basis, both underground and on the surface; (10) horses used on a permanent basis for public trains; (11) stallions and mares²⁴ holding licences (until the licensing was carried out nationwide by the Ministry of Agriculture and State Estates, all licences or registrations were to be valid if from 1 July 1917 they were recognised by the Ministry of Agriculture and State Estates); (12) horses, kept exclusively and permanently for racing, which should be recognised by the Horseracing Societies or in another manner that did not cause any doubts.

As a rule, the places of collection were to be *powiat* towns, but the regulation

²² At this point it should be noted that in international law on war requisitions connected with the occupation of a territory, various types of services and deliveries required by the occupier often take place, e.g. the provision of quarters for soldiers, supply of *podwodas*, construction and repair work on roads and railways, etc. In the light of the regulations concerning the laws and customs of the land war, attached to the Fourth Convention adopted in The Hague on October 18, 1907 (Journal of Laws of 1927, No. 21, item 161), which is, in addition to the Second Hague Convention of 1899 and the Fourth Geneva Convention of 1949, the source of the modern legal regime of war occupation, the seizure of property belonging to private persons, including property used to transport people or goods, does not cause a change of ownership, because such property should be returned after the conclusion of the peace treaty. After the end of the Second World War, the courts have repeatedly denied recognition of the legality of requisition if payment for the requisitioned items was not made or guaranteed, or if a receipt was not issued, see Bierzanek 1982, 251; Konarski 2012, 311; Kwiecień 2013, 72–73.

²³ At present, under the provisions (Art. 22, sect. 3) of the Vienna Convention on Diplomatic Relations of 18 April 1961 (Journal of Laws of 1965, No. 37, item 232, Annex), the host country is obliged to exempt members of the diplomatic mission from all personal obligations, public service and military obligations such as requisitioning, military tributes, accommodation and all other benefits. In the light of the provisions (Art. 31, sect. 4) of the Vienna Convention on Consular Relations of 24 April 1963 (Journal of Laws of 1982, No. 13, item 98, Annex) means of transport, as well as consular premises, their facilities and consular property, are not subject to any form of requisition for national defence or public utility purposes. If expropriation is necessary for those purposes, all appropriate measures should be taken to avoid hampering the performance of consular functions and an appropriate and effective compensation should be paid immediately to the sending state. Cf. Klafkowski 1969, 210; Sutor 1996, 216, 360.

²⁴ By the Regulation of the State Defence Council of 19 July 1920 on the collection of horses (MP No. 177), all mares were exempted from the collection of horses, with the exception of those *powiat* districts in which the *powiat* horse quota was not fully covered by geldings and stallions.

emphasised that the distance from the places of collection to the *gmina* districts for which they were established should not exceed 25 *versts* (kilometres). The obligation to deliver was imposed on horse owners, as well as on the keepers or stud managers. If a horse was not brought to the place of collection, the chairman of the collection committee ordered its delivery to the next place of collection regardless of the distance. At the collection place horses had to be arranged according to *gmina* districts, separately for each owner. Horses had to be brought with bridles and tethers, shod in the way practised in a given town. Horses were to be brought by their owner or their servant and in the event a horse was collected, it had to be taken to the collection point in the same way.

If the army's needs allowed for this, some of the horses collected could be temporarily left to their previous possessors. The decision on the number of horses to be temporarily left in individual *powiat* districts was taken by the Minister of Agriculture and State Estates in consultation with the Minister of Military Affairs or the horse collection committee, depending on whether *powiat* or *gmina* districts were concerned.²⁵

Owners or possessors of horses, temporarily left with them, received a collection card for each horse, while the horses themselves were marked by the military administration with a collection brand. The horse collection card, marked with the number of the register of the horse collection committee, contained the name and place of residence of the horse possessor, description, type and category of the horse, collection brand, price and the obligations of the possessor. This card was signed by the chairman of the committee and the chairman of the remount committee.²⁶ The latter handed to the chairman a list of horses, with the same sections as the collection card. The collection card was valid for 6 months from the date of issue and its validity was subsequently extended on 6 May 1920 to 1 year from the date of issue of the card.²⁷

A. Podolska–Meducka noted that the system of wartime contributions in the presented period was widely criticised by the army, *inter alia* for the lack of provisions in the existing regulations that could be applied in peacetime and the preparation of the war structure of the State administration,²⁸ and attention was drawn

²⁵ On not collecting horses immediately by military units, see JMO 1920, No. 48, item 995.

²⁶ Remount committees were created in order to speed up the purchase of horses, see JMO 1919, No. 40, item 1280. On the payment for horses, see the Instruction for Remount Committees on the method for payment for purchased horses, JMO 1919, No. 10, item 384. On the prices for horses bought by remount committees, see JMO 1919, No. 42, item 1356.

²⁷ The Regulation of the Minister of Military Affairs and the Minister of Internal Affairs of 6 July 1919 on amending the regulation on the collection of horses, Journal of Laws of 1920, No. 42, item 256.

²⁸ These issues were regulated after the coup d'état in May 1926 by the Regulation of the President of the Republic of Poland of 12 November 1927 on the obligation to provide means of transport to the army during peacetime, Journal of Laws No. 102, item 883, and by a number of executive acts amended until 1937, such as, *inter alia*: 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 deliver, as means of transport for the army during peacetime, carts with animal teams, riding and pack animals with trappings, Journal of Laws No 82, item 613; the regu-

to the fact that their subjective scope was too narrow, which did not allow the use of wartime contributions for civilian purposes [Podolska–Meducka 2008, 146].

2. THE ANALYSIS OF THE ACT OF 21 FEBRUARY 1922 AND ITS IMPLEMENTING ACTS

On 21 February 1922, an Act was adopted,²⁹ whose entry into force on 31 March 1922 created the basis for the army to acquire from the moment of mobilisation,³⁰ by way of collection, the necessary number of draught animals and carts.³¹ The obligation to make such contributions applied to all owners and possessors of draught animals and carts,³² with the administrative authorities, apart from the military authorities in the area of warfare, being authorised to demand the fulfilment of their duties. The obligations of the administrative authorities included providing, free of charge, a building and a square needed for an inspection (collection), as well as supervising the proper performance of the duties. If necessary, they were entitled to demand the assistance of the army within the limits of the provisions on the use of the army for the assistance of civil authorities in exceptional cases.³³

lation of the Minister of Military Affairs and the Minister of Internal Affairs of 6 March 1930 issued in agreement with the Ministers of Communications, Treasury, Industry, Trade and Public Works on the obligation to provide aircraft as means of transport for the army during peacetime, Journal of Laws No. 26, item 230; 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 provide cars, motorcycles and bicycles as means of transport for the army during peacetime, Journal of Laws No. 58, item 470.

²⁹ The Act of 21 February 1922 on the obligation to hand over draught animals and carts for the benefit of the State, Journal of Laws No. 21, item 166. As of 21 May 1922, the scope of the Act was extended to the area of the Vilnius Region, see the Regulation of the Council of Ministers of 18 May 1922 on the extension of binding force of the Act of 21 February 1922 to the Vilnius Region. On 26 May 1924, the scope of the Act was also extended to the territory of the Silesian Voivodeship, see the Act of 6 May 1924 on the application of all previous acts on military matters in the territory of the Silesian Voivodeship, Journal of Laws No. 44, item 460.

³⁰ The obligation to hand over terminated upon ratification of the peace agreement with the State or States with which Poland was at war, or as a result of an Regulation of the Minister of Military Affairs and the Minister of Internal Affairs, see the Executive Regulation of the Minister of Military Affairs of 11 May 1922 to the Act on the obligation to hand over draught animals and carts to the State, Journal of Laws No. 36, item. 310 [henceforth cited as: RDA]. For more about ways to terminate a war in the light of international law, see Cybichowski 1914, 143–47; Bierzanek 1982, 126–30.

³¹ The Act did not violate the obligations arising from the Act of 25 July 1919 on Personal War Contributions, Journal of Laws No. 67, item 401.

³² The obligation to transfer the ownership of draught animals to the State for appropriate remuneration was introduced on 22 May 1922. The collection was to take place in the case when the number of these animals required by the army could not be achieved in the usual economic mode for the supply of the army (direct purchase), see Regulation of the Council of Ministers of 15 May 1922 on the introduction of the obligation to hand over draught animals to the State, Journal of Laws No. 36, item 309.

³³ See the Decree on the use of the army in exceptional cases, JLPS No. 1, item 80; the Regulation of the Council of Ministers on the use of the army for securing public order, JLPS No. 35, item 276;

In the light of the provisions of the Act, the term “draught animals” was understood to mean all animals which, in the economic relations existing in the State, were used for riding on their back, in a team or as pack animals (horses, mules, donkeys and oxen).³⁴ Carts were understood as all land means of transport, driven by people, animals (horse-drawn carriages, farm carts) or an engine (cars, motorcycles, tractors, bicycles),³⁵ with the exception of railway rolling stock, together with objects intended for their maintenance and use, not excluding harnesses.

The President of the Republic of Poland was exempt from the obligation imposed by the Act with regard to draught animals and carts included in the establishment, as well as persons enjoying the extraterritoriality right under international law as regards draught animals and carts for personal or official use of these persons and their retinue (the staff of embassies, legations, military missions and consuls except for honorary ones).³⁶ At the same time, a ban on the export of draught animals and carts outside the country was introduced when mobilisation was announced, although it was possible to obtain an authorisation in this regard from the administrative authority of the second instance in agreement with the Corps District Command competent for the place of residence of the applicant (para. 6 RDA).

The following categories of animals are exempt from the obligation to be handed over: (a) horses bred in State stud farms; (b) Thoroughbred stallions and mares as well as other purebred horses, officially certified; (c) licensed stallions and registered mares, officially certified;³⁷ (d) animals working permanently underground in mines; (e) draught animals under four years of age; and (f) mares in advanced pregnancy and mares with foals.

JMO 1919, No. 14, item 520. For more on the nature of decrees as sources of universally binding law, see Mycielski 1933, 180–93.

³⁴ It should also be remembered that in accordance with Art. 17 of the Act of 2 April 1925 on carrier pigeons (Journal of Laws No. 45, item 311), in the event of mobilisation the owners of carrier pigeons were obliged to hand them over to the State for remuneration.

³⁵ The following categories of motor vehicles were exempted from collection: 1) fire cars; 2) racing cars; 3) tractors which constituted a single unit with a plough, see para. 66 RDA.

³⁶ Cf. footnote 23.

³⁷ See the Regulation of the Minister of Agriculture and State Estates of 17 April 1923 issued in agreement with the Ministers of Military Affairs and Internal Affairs on the recognition of certificates of temporary stallion licences and registration of broodmares, Journal of Laws No. 49, item 345; Regulation of the Minister of Agriculture and State Estates of 7 April 1924 issued in agreement with the Ministers of Military Affairs and Internal Affairs on the recognition of certificates of temporary stallion licences and registration of broodmares, Journal of Laws No. 40, item 429. Sometimes licensing and classifications of horses were carried out, the aim of which was not only to increase the breeding of horses in a given *powiat* district, but also to protect good stallions and breeding mares from the collection to the army, which would be detrimental to Polish breeding. Licensing of studs and the classification of breeding mares was carried out, among others, by the breeding sections at the Agricultural Societies through their delegates, who, through the local government bodies, submitted to those interested an announcement to present animals for classifications, see the letter of the Breeding Section at the Lublin Agricultural Society to the *gmina* office in Potok of 20 December 1919, Registry of horses [List of horses], State Archives in Lublin, Branch in Kraśnik, “Akta Gminy Potok Górny”, fonds 26, file. no. 846, card 73.

As regards draught animals and carts, they could be exempted,³⁸ if it was the overriding interest of the public service, social economy and agriculture, in particular small small-scale agriculture (horses and carts of state offices, police and local authorities, firefighters, etc.). It should be noted, however, that the Act provided for the possibility for the military authorities to issue orders annulling all exemptions under the Act in areas of warfare where there was a justified fear that the enemy might capture draught animals and carts.

If a census of draught animals was ordered, persons obliged to fulfil the obligations imposed by the Act³⁹ had to report all the animals in their possession to the competent *gmina* (municipal) office at the request of the competent administrative authorities.⁴⁰ In addition, the Act provided that in order to check the suitability of the animals for military use, an inspection could be organised in the whole State or parts of the state at appropriate intervals,⁴¹ which meant that persons

³⁸ The procedure for filing a request for exemption was regulated by para. 9–13 DA and the Regulation of the Minister of the Internal Affairs of 24 June 1923 on determining the deadline for filing requests for exemption of carts from the provision to the state, Journal of Laws No. 66, item 519.

³⁹ The census of draught animals was administered no more than once a year, in principle during the winter months. The census was to be made public by the administrative authorities of the first instance through official notices, see para. 15–17 RDA. The census of carts could be ordered according to the needs of the military administration, but not more than once a year, see para. 56 RDA.

⁴⁰ Until the Sejm issued an act on municipal local government for the whole country, a temporary Decree of the Head of State on municipal local government of 4 February 1919 was introduced for areas belonging to Russia before World War I, JLPS No.13, item 140. The legal status of the *powiat* self-government was regulated by the decree of the Head of State of 5 December 1918 on the temporary electoral law for *powiat* assemblies, JLPS No. 19, item 51, and the Decree on the temporary electoral law of 4 February 1919, JLPS No. 13, item 141. The activity of local government bodies in the former Austrian partition remained unchanged in this period and was mostly regulated by the legislation from before 1918, similarly as in the former Prussian partition, except that the activity of local government bodies was regulated by the regulation of the minister of the former Prussian district of 12 August 1921, Journal of Laws No. 71, item 492. It should be emphasised that in the structure of the *powiat* assembly, there was some merger of local government bodies with general administration bodies, as the meetings of the assemblies were chaired by a *starost*, who was also the head of the *powiat* department. The *starost's* powers, as a representative of the government and head of the general administration and the departments merged with the general administration included matters of ensuring public safety and order. The supervision over the *powiat* local government was entrusted to voivodes with the participation of the *powiat* department, and besides, as far as military matters were concerned, the competence of the voivode was to cooperate with the military authorities in matters concerning the preparation and execution of personal and material mobilisation and demobilisation, as well as in matters concerning the qualification of horses and means of transport, see the Temporary Act of August 2, 1919 on the Organisation of Second Instance Administrative Authorities, JLPS No. 65, item 395; the executive regulation of the Council of Ministers to the Temporary Act of 2 August 1919 on the Organisation of Second Instance Administrative Authorities, Journal of Laws No. 90, item 490.

⁴¹ The inspection was to take place no more often than once a year in months adapted to the economic conditions of the country, between 1 May and 15 June, or after 1 October. The inspection in individual *powiat* districts was managed by the administrative authority of the first instance by means of public notices, see para. 18–22 RDA. Cf. the notice of the Municipal Office of the City of Radom on the inspection of draught animals, signed by the deputy mayor Domański and the Head of Administrative Authority Laskowski, State Archives, State Archives in Radom, fonds 206, file no. 51, card 1.

obliged by the Act could be summoned by the administrative authorities to present the animals in their possession and such an inspection was to be carried out taking into account the economic and local conditions of *powiat* districts, as far as possible at the seat of each *gmina* (municipal) office, with the aim, of course, of keeping the costs of the owners and possessors of the animals to a minimum. In the event of a failure to comply with the obligation, the compulsory delivery of animals could be ordered.

The inspection was carried out by an inspection committee composed of representatives of the 1st level administrative authorities, representatives of military and local authorities and a military veterinarian or, in his place, a civilian veterinarian.⁴² It should be stressed that the suitability of draught animals was decided only by a representative of the military authority, who was to take the opinion of the veterinarian as the basis for his decision, while the other members had only an advisory vote on this matter.⁴³ As regards the possibility to contest the committee's decision, the decision on the suitability could not be contested separately, so it was contestable only together with the decision of the collection committee to collect the item in question.⁴⁴

In the event of a collection, which was ordered by the Minister of Military Affairs and the Minister of the Internal Affairs after a joint agreement,⁴⁵ the obliged persons were to present, at the request of the administrative authorities, at a place and time indicated by the authorities, those of their draught animals and carts which were found fit for military use at the last inspection and those which had not yet been brought to the inspection committee. The collection itself was carried out by a committee for the collection of draught animals and carts, the composition of which was the same as that of the inspection committee.⁴⁶ It sho-

⁴² In order to launch horse inspection committees and to carry out an inspection of horses on the territory of the Republic of Poland, the Council of Ministers issued a Regulation of 6 May 1922 on the authorisation of the Minister of Military Affairs to enlist veterinarians for training, *Journal of Laws* No. 35, item 296.

⁴³ In terms of military usability, animals were classified as "fit," "temporarily unfit" and "unfit." The ruling of the inspection committee was entered, immediately after it was issued, in an inventory card, which was drawn up in three copies. It should be noted that the recognition of a draught animal as fit for military use and the issue of the registration card did not in any way restrict the rights of the owner or possessor of that animal (cart) arising from the private law relationship in which he remained with it, see para. 30–37 RDA.

⁴⁴ For more about the organisations of inspection committees and the proceedings before them, see para. 23–37 RDA.

⁴⁵ The collection was managed separately in each *powiat* district by the competent administrative authority of the first instance, in agreement with the competent Horses' Replenishment Command by public notices, see para. 38–40 RDA.

⁴⁶ For more information on the proceedings before a collection committee, see para. 41–51 RDA. It should be noted that the decision to collect an animal (cart) could not be made in cases of appeal by the possessor against the refusal of release and in cases of raising an objection by a representative of the army. Moreover, it should be added that RDA issued to further specify the provisions of the Act contained special provisions concerning the collection of motor vehicles (cars and motorcycles), in the light of which their collection was to be carried out in towns with 25 cars including motorcycles, grouped into one collection district (located not more than 100 km from the central

uld be added that, in order to check the efficiency of the mobilisation preparations, the Act provided for a trial collection of draught animals and carts, which meant that, after the presentation of items subject to obligation to the collection committee, they should be released without delay.

Under the Act, the owners (possessors) were to be paid immediately in cash, in an amount to be determined by the collection committee, for the animals and carts handed over to the state at the time of collection, and in situations of exceptional inability to pay in cash, it was possible to issue vouchers for the competent tax office, which were to be cashed no later than 4 weeks from the date of issue. If this deadline was not met, the basis for payment was to be the market price on the date of cashing the voucher.

The amount of remuneration was determined by the committee on the basis of the remuneration list issued by the Minister of Military Affairs in consultation with the competent ministers, and in the case of items not covered by the remuneration list, the amount was to be determined by the committee on the basis of a decision of evaluators, which should correspond to market prices. It should be emphasised that persons obliged to fulfil an obligation could not, according to the Act, be forced to fulfil it if they did not receive, at the time of collection, the remuneration in cash or an voucher for the tax office.

It should be added that obliged persons had to bear different types of costs, such as: (a) costs and risks associated with delivery to (inspection or collection) committees and the risk on the way back; (b) costs of forced delivery; (c) costs associated with carrying out necessary investigations following complaints, if they proved to be unfounded. All other costs were borne by the State Treasury, with the exception of travel and subsistence expenses of local government officials, which were to be covered by the budget of local government units.

Claims against the State Treasury on account of the fulfilment of the statutory obligations should, under pain of their loss, be reported no later than within 6 months from the date of cessation of this obligation. Persons aggrieved as a result of the decisions of the collection committees or the decisions of the first instance authority, had the right to lodge a complaint with the competent administrative authority of the second instance within one month from the date when they were aggrieved or from the date of delivery of a written decision. The complaint was submitted through the competent administrative authority of the first instance, and the decision of the second instance was to be made no later than 4 weeks from the date on which the complaint was submitted to the authority. All files, evidence and correspondence resulting from the obligations provided for by the

point), and the place of office of the collection committee was to be the central point of the district. Separate commissions were set up for the collection of bicycles and tractors, and their collection was to take place in each individual district. In addition to a committee for cars, trailers, tractors and bicycles, the military authorities could invite a representative of the car club to participate with an advisory voice, see para. 64–65 RDA.

Act were exempt from the stamp duty.⁴⁷

The Act also contained several provisions on the punitive measures to which persons evading the obligations provided for in the Act were subject to (e.g. persons hiding animals).⁴⁸ Such persons could be administratively fined up to the value of the relevant item which they were obliged to provide or placed under arrest for up to 6 months. In addition, the penalty of confiscations of the items could be inflicted on such persons.

The punished persons had the right to appeal against such criminal rulings of the administrative authorities of the first instance to the competent voivodeship office against such criminal within 14 days from the date of delivery of the ruling in writing. In addition, the Act provided that until detailed regulations in this respect were issued, penal rulings of administrative authorities in the second instance may be appealed against within 7 days from the date of delivery to the district court competent for the seat of administrative authority of the first instance. The court made the final decision, but could not overrule the ruling of the administrative authority and referred the case back to it for re-examination and a ruling. At the same time, the appeal to the court did not suspend the execution of the penalty of deprivation of liberty, the execution of which was requested by the administrative authority to the competent peace (*powiat*) court of the convicted person's place of residence, sending the case files to the court for this purpose.

CONCLUSIONS

The Act of 21 February 1922, which is the subject of my analysis, together with the regulations issued on its basis, expired when the Regulation of the President of the Republic of Poland of 8 November 1927 on the obligation to dispose of draught, animals, carts, motor vehicles and bicycles for the purpose of defending the State became effective.⁴⁹ It was formally in force until 7 July 1953⁵⁰ but

⁴⁷ See the Regulation of the Minister of Treasury in agreement with the Ministers of Internal Affairs, Justice, and Post Offices and Telegraphs of 8 May 1922 on stamping fees for applications and official certificates, Journal of Laws No. 38, item 319; regulation of the Minister of Treasury in agreement with the Ministers of Internal Affairs and Post Offices and Telegraphs of 8 May 1922 on stamping fees for applications and official certificates, Journal of Laws No. 44, item 298.

⁴⁸ See the circular (505) of the Lublin Voivode to all the *starosts* of the Lublin Voivodeship of 22 October 1922 on hiding horses by the population during an inspection, Official Journal of the Lublin Voivodeship of 1922, No. 16, item 278.

⁴⁹ Journal of Laws No. 98, item 859.

⁵⁰ See the Decree of 24 June 1953 on the provision of means of transport for the needs of State defence, Journal of Laws No. 34, item 142. In the light of the provisions of this Decree, which entered into force on 7 July, the provisions were applied to the following means of transport: motor vehicles (cars, buses, road tractors, tractors, motorcycles, trailers and semitrailers), horses between 4 and 16 years of age, carts with harnesses (passenger vehicles and carts with one or two shafts, on wheels with iron or rubber tyres and sledges with harnesses), and bicycles. It should be emphasised that this Decree did not violate the provisions on the provision of means of transport for the benefit of the army and public security service during peacetime and the provisions on the movement of vehicles on public roads, see the Act of 18 July 1950 on the provision of means of transport for the

by that time it had been amended several times.⁵¹

In conclusion, it should be stated that the system of military and wartime contributions, which was established in Poland after it regained independence and at the same time under the conditions of war with Bolshevik Russia, despite its imperfections, proved effective. After the end of the war of 1920, a new system of wartime contributions began to be created in the area of handing over means of transport, such as draught animals and carts, in the event of mobilisation or the outbreak of war, which resulted in the adoption of the Act and its implementing acts, which were the subject of the above analysis.

However, it was only with the coup d'état carried out by Józef Piłsudski in May 1926 that the circles connected with the military administration received a strong argument in favour of changing the existing legal regime related to wartime contributions in the event of mobilisation or the outbreak of war. Already in the following year – 1927, as I mentioned above, the President issued a Regulation, based on the provisions of the so-called August amendment, i.e. the Act amending the Constitutional Act of 1921, which was passed on August 2, 1926.⁵²

The new regulations on handing over animals and carts from November 1927 no longer referred to the handing over of these items to the State, as was the case previously, but for the benefit of its defence. Moreover, due to the dynamic development of motorisation in the 1920s, they were adapted to the reality and directly referred to handing over motor vehicles. Together with further regulations on wartime contributions in kind issued in the following years,⁵³ the regulations on handing over created a new system of wartime contributions in case of mobilisation or the outbreak of war, which survived in Poland until the outbreak of World War II.

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benefit of the army and public security service during peacetime, Journal of Laws No. 36, item 322. The competence and procedure of State administration bodies when providing means of transport for the benefit of the State defence were regulated by the Regulation of the Council of Ministers of 24 June 1953, Journal of Laws No. 34, item 145.

⁵¹ See the Act of 9 April 1938 on the amendment of the Regulation of the President of the Republic of Poland on the obligation to hand over draught animals, carts, motor vehicles and bicycles for State defence purposes, Journal of Laws No. 28, item 250; Act of 30 March 1939 on the amendment of the Regulation of the President of the Republic of Poland on the obligation to dispose of draught animals, carts, motor vehicles and bicycles for the purposes of the defence of the State, Journal of Laws No. 28, item 182; Decree of the President of the Republic of 26 July 1939 on the amendment of the Regulation of the President of the Republic on the obligation to hand over draught animals, carts, motor vehicles and bicycles for the purpose of the defence of the State, Journal of Laws No. 67, item 455.

⁵² Journal of Laws No. 78, item 442.

⁵³ See the Regulation of the President of the Republic of 26 August 1927 on material wartime contributions, Journal of Laws No. 79, item 627; the Regulation of the President of the Republic of 24 October 1934 on material wartime contributions, Journal of Laws No. 95, item 859; the Act of 30 March 1939 on the universal obligation to make contributions in kind, Journal of Laws No. 30, item 200.

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OBOWIĄZEK ODSTĘPOWANIA ZWIERZĄT POCIĄGOWYCH
I WOZÓW Z CHWILĄ OGŁOSZENIA MOBILIZACJI LUB WYBUCHU WOJNY
W ŚWIETLE USTAWY Z DNIA 21 LUTEGO 1922 ROKU I AKTÓW WYKONAWCZYCH

Streszczenie. Niniejsza analiza związana pozostaje z systemem świadczeń wojennych na rzecz obrony państwa w okresie II Rzeczypospolitej. System świadczeń wojennych dawał państwu prawo żądania od ludności tych świadczeń, a w szczególności odpłatnego odstępowania na rzecz państwa własności lub prawa użytkowania ruchomości i nieruchomości bezpośrednio lub pośrednio potrzebnych dla celów zaopatrzenia armii i obrony państwa, lecz wyłącznie dopiero z chwilą wybuchu wojny lub zarządzenia częściowej bądź ogólnej mobilizacji. Autor poddaje analizie wyłącznie jeden z rodzajów tak rozumianego systemu świadczeń wojennych, a mianowicie świadczenia obejmujące obowiązek odstępowania zwierząt pociągowych i wozów z chwilą ogłoszenia mobilizacji lub wybuchu wojny. W artykule zwrócono uwagę na pierwsze regulacje prawne w zakresie świadczeń wojennych obowiązujące na terenach odrodzonego państwa polskiego, w szczególności zaś na pierwsze akty prawne odnoszące się do odstępowania zwierząt pociągowych i wozów.

Słowa kluczowe: II Rzeczpospolita, administracja wojskowa, systemy mobilizacyjne, świadczenia wojenne, obrona państwa

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