

Military Courts as a Tool in the Polish Workers' Party's Fight for Power (1944–1948)

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Abstract:

The paper is an attempt to answer the following questions: How did the tasks of protecting the political system and elimination of political enemies determine the structure and organisation of the military courts? How did the party pursue its personal policy in court? How were the attitudes of and rulings issued by the military judges influenced? As early as 1944, the pre-war legal regulations governing the military court structure and the army criminal law ceased to apply. The argument to support the changes was that they served to improve the operation of the military justice system and to ensure the most effective fight against crime. However, the Soviet solutions were adopted, such as separation of the prosecution from courts, assigning to prosecutors some rights which so far accrued to judges, or introduction of lay judges. The changes were intended to eliminate the independence of the judiciary as a separate power and to enhance the role of prosecutors. Military courts were assigned the task to adjudicate in cases involving civilians accused of political crimes. The communists intended to destroy the armed communist resistance as well as pacify the social resistance. Concerning the personal policy in military courts, the guidelines issued by Władysław Gomułka in November 1944 applied. In the law on the military court system of 1944, the provision which required a judge to be a Polish citizen was deliberately repealed. With this criterion no longer applicable, the communists could nominate the Red Army officers to hold the positions of heads of military courts. As a consequence of the changes, the rights of the accused persons and human rights were degraded, which contributed to turning Poland into a totalitarian state subjected to the communist party.

Keywords: the Polish People's Republic; the Polish Workers' Party; the military courts

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As the political situation changed in Poland after World War II, the communists started to use, among other things, military courts to take over the power and establish the new regime. They made the military judicature, which was supposed to physically eliminate enemies of the new state, their tool in the fight with political opponents.

The following paper will focus on the problematic aspects of using military courts in the political struggle. The paper aims to answer the following questions: How did the tasks of protecting the political system and elimination of political enemies determine the structure and organization of the military courts? How did the party pursue its personal policy in court? How were the attitudes of and rulings issued by the military judges influenced? What was the party membership among the military judges? Did the judges remain apolitical? Were the judges independent?

As early as 1944, the communists rejected the military legislation of the Second Republic of Poland, disrupting the legal continuity in this way. A new law on the military courts system (23 September 1944),¹ the Polish Army Penal Code (23 September 1944),² and a year later the Military Code of Conduct (23 June 1945)³ were established. The argument to support the changes was that they served to improve the operation of the military justice system and to ensure the most effective fight against crime.

However, these laws changed the military jurisdiction. New solutions and legal institutions based on the Soviet model were introduced, such as separation of the prosecution from courts, assigning to prosecutors some rights which so far accrued to judges (for instance use of a detention of suspects and accused), or introduction of lay judges. Lay judges were appointed to act in adjudication panels. The jurors received almost all the judicial powers in terms of hearing and ruling like professional judges. They could gain superiority over the professional judge. A commander/head of the military unit, at which the court was established, appointed the jurors from among politically developed soldiers. The three-instance system of court proceedings was abolished.⁴

The changes were intended to eliminate the independence of the judiciary as a separate power and to enhance the role of prosecutors.

Military courts were assigned the task to adjudicate in cases involving civilians accused of political crimes. The new task of military courts was to strengthen the political and economic system and not to administer justice. The communists intended to destroy the armed anti-communist underground as well as pacify the social resistance.⁵

¹ Dekret Polskiego Komitetu Wyzwolenia Narodowego [The Polish Committee of National Liberation's decree] (later: PKWN decree) – Prawo o ustroju sądów wojskowych i prokuratury wojskowej [Law on the military courts system] (Dz. U. /Journal of Laws No. 6, item 29).

² Dekret PKWN – Kodeks karny Wojska Polskiego [PKWN decree – The Polish Army Penal Code] (Dz. U. / Journal of Laws No. 6, item 27).

³ Dekret PKWN – Kodeks wojskowego postępowania karnego [PKWN decree – The Military Code of Conduct] (Dz. U. /Journal of Laws No. 36, item 216).

⁴ LITYŃSKI, A. *O prawie i sądach początków Polski Ludowej* [About law and courts of the Polish People's Republic]. Białystok: Wydawnictwo Temida 2, 1999, p. 63.

⁵ POKSIŃSKI, J. „*My, sędziowie, nie od Boga...*” *Z dziejów Sądownictwa Wojskowego PRL 1944–1956. Materiały i dokumenty*, [“We, judges, are not from God ...” History of military judiciary of the Polish People's Republic 1944–1956. Resources and documents]. Warszawa: Warszawska Oficyna Wydawnicza, 1996, pp. 39–40.

One of the tools of communists against the political opponents – especially against civilians accused – was a new Chapter 17 (seventeenth). Chapter 17 (Articles 85–103) on high treason was introduced into the Polish Army Penal Code. The provisions were extended and penal law sanctions were made more rigorous. Extremely severe prison sentences were applicable – 10 of 19 Articles of Chapter 17 provided for a death penalty. A punishment for attempting, not only committing, an illegal act was introduced. The death penalty was imposed for among others attempting to deprive the state of its independence, carrying out an attack on the main authorities or the state system, self-gathering means for armed struggle to carry out an assassination, attempting to remove the authorities by force, attempting to seize the power.⁶

The Polish Committee of National Liberation (Polski Komitet Wyzwolenia Narodowego, PKWN) decree of 30 October 1944 on State protection⁷ was of great significance for the repressions occurring after World War II. The death penalty or imprisonment without restriction was imposed under all eleven substantive articles of this decree. New punishable offences were introduced (previously unknown to the Polish law), such as sabotage or violent attack. They were not defined, which allowed for their wide interpretation, abuse of the law and, as a result, adjudication of a severe penalty.⁸

There were other important decrees, such as the PKWN decree on particularly dangerous crimes in the course of restoration of the State issued on 16 November 1945,⁹ which was later replaced with the decree issued on 13 June 1946 of the same title¹⁰ (the so-called Small Penal Code),¹¹ added new acts punishable by the death penalty. In total, the death penalty was mentioned 13 times in this decree.

The PKWN decree of 24 August 1944 on the dissolution of secret military organizations in the liberated territory¹² was used to fight against political opponents, especially members of the Home Army. It was often used by the military courts. In addition to the structure of the military jurisdiction specified in the Act on Law on the Military Court Structure (the Supreme Military Court; army, district, admiralty, corps, division, garrison and naval courts),¹³ special military courts were appointed, such as Military Court of the Polish State Railways (1944 – based on the decree of 4 November 1944 on militarisation

⁶ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, pp. 81–84.

⁷ Dekret PKWN o ochronie Państwa [PKWN decree on State protection] (Dz. U. /Journal of Laws No. 10, item 50)

⁸ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, pp. 81–84.

⁹ Dekret PKWN o przestępstwach szczególnie niebezpiecznych w okresie odbudowy Państwa [PKWN decree on particularly dangerous crimes in the course of restoration of the State] (Dz. U. /Journal of Laws No. 53, item 300).

¹⁰ Dekret PKWN o przestępstwach szczególnie niebezpiecznych w okresie odbudowy Państwa [PKWN decree on particularly dangerous crimes in the course of restoration of the State] (Dz. U. /Journal of Laws No. 30, item 192).

¹¹ MAKSIMIUK, D. Krótka historia długo obowiązującego dekretu, czyli o tzw. małym kodeksie karnym [A brief history of long decree, about the so-called small penal code]. *Miscellanea Historico-Iuridica*, 2010, t. IX.

¹² Dekret PKWN o rozwiązaniu tajnych organizacji wojskowych na terenach wyzwolonych [PKWN decree on dissolution of secret military organizations in the liberated territory] (Dz. U. /Journal of Laws No. 3, item 12).

¹³ Dekret PKWN – Prawo o ustroju sądów wojskowych i prokuratury wojskowej [PKWN decree – law on the military courts system] (Dz. U. /Journal of Laws No. 6, item 29) – Article 12.

of the Polish State Railways¹⁴), Military Court of the Internal Security Corps, Military Court of the “Wisła” (“Vistula”) Operational Group.¹⁵ The most important were Military District Courts.

The Military District Courts were created based on a secret order issued on the 20th of January 1946 by the Defence Minister,¹⁶ so these courts were appointed without legal basis. The prototype of the MDC was the Soviet tribunals of the People’s Office for Interior Services. These courts were organized to adjudicate in cases of civilians accused of political crimes. It’s important to emphasise that 65–70% of the convicted persons were civilians.¹⁷ The courts were essential from the perspective of the communist authorities because the judges of the MDC examined the most serious political cases of those times and issued several thousand death sentences.¹⁸ The Military District Courts were entrusted with the protection of the Polish People’s Republic against espionage, sabotage, diversion and the fight against the activity of “armed bands”. Their task was to suppress class system resistance, strengthen the political and economic system and not administer justice. The military judges of the district courts were not supposed to examine a case impartially and with scrutiny and to pronounce just sentences which would be adequate to the act committed and to the guilt, but to eliminate the political opponents of the ruling party from public life. From 1946 to 1947 the courts were used to legalise the combat with the anti-communist military underground. Since 1948 the defendants included ordinary citizens, who posed a potential threat in the eyes of the government and admitted guilty in investigations regarding acts they did not commit.

¹⁴ Dekret PKWNo militaryzacji Polskich Kolei Państwowych [PKWN decree on militarisation of the Polish State Railways] (Dz. U. /Journal of Laws No. 11, item 55).

¹⁵ ZABORSKI, M. Specjalne sądy wojskowe w Polsce w latach 1944–1955 (Wojskowy Sąd PKP, Wojskowy Sąd KBW oraz wojskowe sądy rejonowe) [Special Military Courts in Poland in years 1944–1955 (Military Court of the Polish State Railways, Military Court of the Internal Security Corps and Military District Courts)]. *Palestra* 2004, no 3–4, p. 165; *Ibidem*, *Ustrój sądów wojskowych w Polsce w latach 1944–1955* [The military court system in Poland in years 1944–1955]. Lublin: Towarzystwo Naukowe Katolickiego Uniwersytetu Lubelskiego, 2005, pp. 220–229.

¹⁶ Centralne Archiwum Wojskowe [Central Military Archive] (later: CAW), IV.501.1/A.150, pp. 56–58 (oryginał rozkazu – a master copy of the order); CAW, IV.501.1/A.149, pp. 64–66 (odpis rozkazu – a duplicate of the order); also: ZABORSKI, M. Oni skazywali na śmierć ... Szkolenie sędziów wojskowych w Polsce w latach 1944–1956 [They convicted on the deathpenalties ... Education of military judges in Poland in years 1944–1956]. In: BÄCKER, R. – HÜBNER, P. (ed.). *Skryte oblicze systemu komunistycznego. U źródeł zła ...* [Hidden faces of communist system. The Origins of Evil ...]. Warszawa: Wydawnictwo DiG, 1997, pp. 142–145.

¹⁷ For example: MUSIAŁ, F. *Polityka czy sprawiedliwość? Wojskowy Sąd Rejonowy w Krakowie (1946–1955)* [Politics or justice? The Military District Court in Cracow (1946–1955)]. Kraków: Societas Vistulana, Wydawnictwo Instytutu Pamięci Narodowej, 2005, pp. 265, 267–270; BURCZYK, D. *Wojskowy Sąd Rejonowy w Gdańsku (1946–1955)* [The Military District Court in Gdańsk (1946–1955)]. Gdańsk: Wydawnictwo Instytutu Pamięci Narodowej, 2012, pp. 262, 270, 274, 303, 311, 313–314.

¹⁸ PTASZYŃSKI, R. *Wojskowy Sąd Rejonowy i Wojskowa Prokuratura Rejonowa w Szczecinie w latach 1946–1955* [The Military District Court and the Military District Prosecutor Office in Szczecin in years 1946–1955]. Szczecin: Wydawnictwo Instytutu Pamięci Narodowej, 2010, pp. 302–303; POKSIŃSKI, „My, sędziowie, nie od Boga...”, pp. 11–15.

Political proceedings were characterized by the following issues:

- a burden of proof was the responsibility of the defendant,¹⁹
- lack of exhibits,
- confession of guilt made by a defendant as well as testimonies given by witnesses – co-defendants and arrested individuals (who in artificially separated cases were treated as the witnesses to each other) were predominant,²⁰
- the adjudication panels were organized in such a way as to guarantee an “adequate” sentence,
- a drastic severity of the penalties,
- convictions for acts which were not criminal offences,
- hearing a case at a non-public sitting under the pretext of the State security,²¹
- trials were held in no time, frequently without defendants and serious hearing of evidence,²²
- human rights were violated, the right to defence was breached,²³
- trials were often demonstrative (the so-called show trials).

The trials were held in the headquarters of the courts or during off-site sessions of the court. As a rule, the off-site sessions involved show trials. The show trials were an important element of the penal policy of that time. They were organized by strict guidelines of the Ministry of Public Security.²⁴ The demonstrative trials were assigned an educational role.²⁵ Their task was to reveal a true image of the enemy of post-war Poland and to justify severe repressions used by the military jurisdiction. The show trials took place, especially

¹⁹ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, p. 56.

²⁰ *Ibidem*; Sprawozdanie Komisji do zbadania odpowiedzialności b. pracowników Głównego Zarządu Informacji, Naczelnej Prokuratury Wojskowej i Najwyższego Sądu Wojskowego [Report of the Commission to investigate responsibility of officers of the Main Board of the Polish Army Information, the Supreme Military Prosecutor Office and the Supreme Military Court]. In: POKSIŃSKI, J. „*My, sędziowie, nie od Boga...*”, pp. 264–268.

²¹ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, p. 61.

²² POKSIŃSKI, „*My, sędziowie, nie od Boga...*”, pp. 262–264, 266–267.

²³ *Ibidem*.

²⁴ Pismo okólne dyrektora Gabinetu Ministra Bezpieczeństwa Publicznego z dn. 11. 12. 1946 r. do szefów wojewódzkich urzędów bezpieczeństwa publicznego w sprawie „propagandowego naświetlenia” „jawnych procesów przywódców i członków band i organizacji reakcyjnych” [Circular of the Head of the Office of the Public Security Minister]. In: KOPKA, B. – PACZKOWSKI, A. (ed.). *Księga bezprawia. Akty normatywne Kierownictwa Resortu Bezpieczeństwa Publicznego (1944–1956)* [The book of lawlessness. Legal acts of the public security authorities (1944–1956)]. Warszawa: Wydawnictwo Instytutu Pamięci Narodowej, 2011, p. 230.

²⁵ CHMIELEWSKI, H. *Nowy charakter sądów* [A new nature of courts]. Katowice: Czytelnik, 1951, p. 11; CHMIELEWSKI, H. *Sąd – organ władzy ludowej* [A court – organ of people’s authority]. Warszawa: Wiedza Powszechna, 1952, pp. 44, 60–61.

in cases regarding participation in illegal organizations,²⁶ espionage²⁷, sabotage²⁸ or violent attacks on state officials.

The trials of communist Poland, especially show trials revealed changes in relations between judicial authorities. A court did not resolve a case but pronounced a sentence dictated by the party officials.²⁹ A prosecutor did not perform any investigation (preparing proceedings); he only prepared an indictment. At the trial, a public prosecutor had a special role. Prosecutor *de facto* performed the role of the head of the court proceedings (instead of a judge), he facilitated transferring the expected sentences between the court and the public security authorities and the party.³⁰ The public security apparatus officers conducted investigations (instead of a prosecutor), interfered in the adjudication panels and the trial order, and exerted pressures on the courts to pronounce “adequate” sentences.³¹

It's important to emphasize, that The Ministry of Public Security was entrusted with the supervision of detention centres and prisons. This allowed for an unlimited supervision of the security authorities over investigations.³²

In practice, the trial rules applicable in the European legal culture were not in force in the case of military courts. In the name of the ideology and political goals, the principles regarding evidence hearing were rejected. The basic (and frequently the only) evidence in political cases was the confession of one's guilt by the accused. The court proceedings

²⁶ For example: Archiwum Pamięci Narodowej Katowice [Archive of the Institute of National Remembrance in Katowice] (later: AIPN Ka), Wojskowy Sąd Rejonowy w Katowicach [The Military District Court in Katowice] (later: WSR Ka), 279/1, Sprawozdanie z działalności Wojskowego Sądu Rejonowego w Katowicach za miesiąc październik 1946 r. [Report of activity of the Military District Court in Katowice in October 1946], pp. 62–63; also: KURPIERZ, T. (ed.). *Skazani na karę śmierci przez Wojskowy Sąd Rejonowy w Katowicach 1946–1955* [Convicted persons on deathpenalty in the Military District Court in Katowice 1946–1955]. Katowice: Wydawnictwo Instytutu Pamięci Narodowej, 2004, p. 19.

²⁷ For example: AIPN Ka, WSR Ka, 279/115, Akta sprawy Sr 84/52 przeciwko Hubertowi Bogackiemu [Dossier of criminal proceedings of Hubert Bogacki], pp. 118–121.

²⁸ For example: DZIUBA, A. – DROZDOWSKI, A. Walka aparatu bezpieczeństwa ze zjawiskiem sabotażu przemysłowego w województwie śląskim w 1949 r. (casus Marii Kandzi) [The fight of security apparatus with industry sabotage in silesian voivodeship in 1949 (casus of Maria Kandzia)]. *Studia Śląskie*, 2006, no 65.

²⁹ POKSIŃSKI, „My, sędziowie, nie od Boga...”, pp. 263–264.

³⁰ *Ibidem*, pp. 244–247; POKSIŃSKI, J. „TUN” Tatar-Utnik-Nowicki. Represje wobec oficerów Wojska Polskiego w latach 1949–1956 [“TUN” Tatar-Utnik-Nowicki. Repressions against officers of the Polish Army in years 1949–1956]. Warszawa: Bellona, 1992, pp. 121–127.

³¹ POKSIŃSKI, „TUN” Tatar-Utnik-Nowicki. Represje wobec oficerów Wojska Polskiego w latach 1949–1956, pp. 127–130, 138–141.

³² LITYŃSKI, A. *Historia prawa Polski Ludowej* [History of law of the Polish People's Republic]. Warszawa: Wolters Kluwer, 2013, pp. 108–111; LITYŃSKI, A. Organizacja wymiaru sprawiedliwości oraz prawo sądowe [Organization of justice system and law]. In: KALLAS, M. – LITYŃSKI, A. *Historia ustroju i prawa Polski Ludowej* [History of system of government and history of law of the Polish People's Republic]. Warszawa: Wydawnictwa Prawnicze PWN, 2000, pp. 277–280; ROŚ, J. – ROSENBAUM, S. Metody działania wojewódzkich organów bezpieczeństwa. Więzienia i obozy [The operating method of voivodeship security apparatus. Prisons and camps]. In: *Fundament system zniewolenia. Z działalności wojewódzkich struktur Urzędu Bezpieczeństwa w Katowicach 1945–1956* [The foundation of system of oppression. Activity of voivodeship the public security apparatus in Katowice 1945–1956]. Katowice: Wydawnictwo Instytutu Pamięci Narodowej, 2009, pp. 136–158, 168.

were limited only to the reading of evidence collected during the investigations.³³ The complaints of the defendants during the brutal hearings were regarded as unreliable and at best ignored by judges.³⁴

The judges used to reject the petitions of the accused to summon and hear additional witnesses, they did not allow the accused to ask questions to the prosecution witnesses.³⁵ The court could exclude the defence, due to the safety of the State, even in cases punishable with a death penalty.³⁶ The important question is: How did the party pursue its personal policy in courts? Concerning the personal policy in military courts, the guidelines issued by the general secretary of the Polish Workers' Party Władysław Gomułka in November 1944 applied. He ordered that all managerial positions in courts were to be held by people who "think along the line of the democratic government".³⁷

The fundamental party units were active in military courts. From 1944 there was no ban on political party membership for the judges, which was a novelty compared to the pre-war regulations. Many judges were members of the Polish Workers' Party. In 1948, 50% of the military judges had a party ID card of the Polish Worker's Party. About 20% of the personnel were non-partisan officers. Among the non-partisan officers, there were also ruthless military judges who had passed dozens of death penalties.³⁸ Although the party affiliation of the military justice officers affected their behaviours, it did not determine the availability of the military lawyers towards the ruling communist party. At the end of 1946, Colonel Henryk Holder, Head of the Justice Department of the Ministry of National Defence, stated that although the political level in the public prosecutor's offices was better than in the courts, the majority of leading positions was occupied by the officers who

³³ POKSIŃSKI, „*My, sędziowie, nie od Boga...*”, pp. 263–265; POKSIŃSKI, „*TUN*” Tatar-Utnik-Nowicki. *Represje wobec oficerów Wojska Polskiego w latach 1949–1956*, pp. 127–138.

³⁴ SIKORA, M. Edmund Ryszard Ronowicz (1915–2003), sędzia WSR w Katowicach [Edmund Ryszard Ronowicz (1915–2003), a judge of the Military District Court in Katowice]. *Aparat represji w Polsce Ludowej 1944–1989*, 2006, no 2, p. 470; AIPN Ka, Akta śledztwa S 2/00/Zk [Dossier of investigation], pp. 418–419; POKSIŃSKI, „*My, sędziowie, nie od Boga...*”, p. 264; BOROWIEC, J. Metody śledcze stosowane podczas przesłuchań przez pracowników urzędów bezpieczeństwa publicznego (na podstawie akt Wojskowej Prokuratury Rejonowej w Rzeszowie (1946–1955)) [The investigation method of officers of the public security apparatus (based on documents of the Military District Prosecutor Office in Rzeszów (1946–1955))]. *Studia Rzeszowskie*, 1995, no 2, pp. 45–58; KURPIERZ, T. – PIĄTEK, P. „*Dobić wroga*”. *Aparat represji wobec podziemia zbrojnego na Śląsku Cieszyńskim i Żywiecczyźnie (1945–1947)* [“To finish off of the enemy”. The apparatus of repression against armed underground in Cieszyn Silesia and Żywiec region (1945–1947)]. Katowice – Kraków: Societas Vistulana, Wydawnictwo Instytutu Pamięci Narodowej, 2007, pp. 123–131; LITYŃSKI, A. O „sądach” (?) do Walki. Sekcja tajna, czyli tzw. sąd tajny [About “courts”? for fight. Secret section, so called secret court]. In: IDEM, *Między humanitaryzmem a totalitaryzmem. Studia z dziejów prawa karnego* [Between humanitarianism and totalitarianism. Study about history of penal law]. Tychy: Wyższa Szkoła Zarządzania i Nauk Społecznych, 2002, pp. 161–162.

³⁵ AIPN Ka, Akta śledztwa sygn. S 73/02/Zk [Dossier of investigation]; KALLAS, M. – LITYŃSKI, A. *Historia ustroju i prawa Polski Ludowej*, p. 234; IDEM. *Historia prawa Polski Ludowej*, p. 58.

³⁶ LITYŃSKI, *Organizacja wymiaru sprawiedliwości oraz prawo sądowe*, p. 234; LITYŃSKI. *Historia ustroju i prawa Polski Ludowej*, p. 58.

³⁷ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, pp. 130–133.

³⁸ SZWAGRZYK, K. *Prawnicy czasu bezprawia. Sędziowie i prokuratorzy wojskowi w Polsce 1944–1956* [Lawyers of time of lawlessness. Military judges and prosecutors in Poland 1944–1956]. Kraków – Wrocław: Societas Vistulana, Wydawnictwo Instytutu Pamięci Narodowej, 2005, p. 75.

had “strong” views.³⁹ Due to the tasks of the military jurisdiction, regardless of the party membership, each judge, especially a judge who held a managerial post, was obliged to be at the disposal of the communist authorities. Each judge was obliged to approve the communist party and its policies.

Therefore, the independence of the military courts and the judges was questionable. To keep the appearance of the state of law, judiciary independence was formally maintained. As the military courts were assigned the task of achieving certain political goals, the communists gave the independence principle some new “revolutionary” content. In reality, there was no place for the judge’s personal beliefs since the sentences should have corresponded to the current policies of the authorities. The judge was bound by directives and party resolutions. Military judges were to follow the current policy of the party in their judgements. In this way, the party policy replaced the judge’s conscience.⁴⁰

Since 1944 the principle of judge’s independence was notoriously breached. The judiciary independence in political matters was officially breached, as a part of the communist party’s managerial role.⁴¹ In years between 1944 and 1948, the autonomy and independence of the judiciary were interfered.⁴² In this way, a model of the tripartition of power was abolished, and a doctrine of a unity of the authorities and a leading role of the party was introduced. Courts were treated as an administrative body of the state whose task was to guard the system and interests of the Polish Worker’s Party.

Infringements of the judiciary autonomy were committed by representatives of the communist party – the leadership of the Central Committee and its Political Bureau, members of the Commission of the Political Bureau for Public Security and the Provincial Committee of the Polish Worker’s Party, basic party organisations as well as officials of the security offices and the Military Information. Heads of military courts were obliged to contact the party apparatus in the army and report to party authorities regarding the current aspects of penalising. Meetings of the military court heads with the representatives of the provincial committee of the Polish Worker’s Party were held. Specific criminal cases were consulted on, among others, dates of the hearings, penalties and selection of cases suitable for show trials. The representatives of the provincial committees of the party provided “political support” to the courts operating within their area and participated in the show trials.⁴³

³⁹ Archiwum Akt Nowych [Archive of New Records] (later: AAN), 13, Pismo szefa DSS MON płk. Henryka Holdera do prezydenta KRN Bolesława Bieruta [Letter of colonel Henryk Holder to president Bolesław Bierut], 12 December 1946, p. 218.

⁴⁰ REJMAN, G. Niezawisłość sędziowska [Principle of judge’s independence]. In: DĘBIŃSKI, A. – GAŁĄŻKA, M. – HAŁAS, R. G. – WIAK, K. (ed.). *Hominum causa omne ius constitutum est. Księga jubileuszowa ku czci Profesora Alicji Grześkowiak* [Hominum causa omne ius constitutum est. An Anniversary Book for Prof. Alicja Grześkowiak]. Lublin: Wydawnictwo KUL, 2006, p. 95.

⁴¹ ZABORSKI, M. Niezawisłość sędziów sądów wojskowych w Polsce w latach 1944–1956 [Principle of military judge’s independence in Poland in years 1944–1956]. In: GONDEK, M. J. – KOSYŁO, A. – PELEWICZ, R. (ed.). *Wzmocnienie niezawisłości sędziowskiej w Polsce i na Ukrainie w dobie przemian. Zagadnienia teorii i praktyki* [Reinforcement to principle of judge’s independence in Poland and in Ukraine of time of changes. Issues of theory and practice.]. Łuck: 2008, p. 319.

⁴² *Ibidem*, pp. 319–327.

⁴³ SZWAGRZYK, *Prawnicy czasu bezprawia. Sędziowie i prokuratorzy wojskowi w Polsce 1944–1956*, p. 92.

The party's influence over the attitudes of judges had various forms and was exercised in many areas, but it served one purpose: to interfere with the independence of both the judiciary and the military courts. The courts were meant to be an effective tool for the communists to fight the "enemies of the people".⁴⁴ Activities undertaken by the Polish Worker's Party towards the courts aimed at putting every aspect of the judiciary functioning under surveillance.

The military judges were under close surveillance carried out by the Military Information. The officers of the Military Information had a significant impact on the staff selection and future careers of the judges, including dismissing them from the service. The judge's political views, attitude towards the communist party and new system as well as his/her judicial activity were evaluated. Each case of an acquittal verdict was subject to a detailed analysis and a report to the Main Board of the Polish Army Information.⁴⁵ In the law on the military court system of 1944, the provision which required a judge to be a Polish citizen was deliberately repealed. With this criterion no longer applicable, the communists could nominate the Red Army officers to hold the positions of heads of military courts.⁴⁶

As a part of the penal policy, the most important positions in the military jurisdiction were sovietised. Citizens of the Soviet Union performed the functions of the court heads. For example, heads of the Supreme Military Court were the Red Army officers: Aleksander Tarnowski (2 September 1944 – 23 November 1945), Aleksander Michniewicz (23 November 1945 – 17 March 1947) and Wilhelm Świątkowski (1 November 1950 – 21 July 1954).⁴⁷ Five of seven heads of the Military Regional Courts (Konstanty Krukowski – Warsaw, Stefan Piekarski – Wrocław, Bronisław Rakowski – Cracow, Warsaw, Franciszek Pojmański – Lublin, Marian Osowski – Łódź)⁴⁸ and two of fourteen heads of the Military District Courts were soviet soldiers (Julian Giemborek – Katowice,⁴⁹ Piotr

⁴⁴ PASZEK, M. Wpływ PPR/PZPR na wojskowe sądy rejonowe ze szczególnym uwzględnieniem Wojskowego Sądu Rejonowego w Katowicach/Stalinogrodzie (1946–1955) [Influence of the Polish Workers' Party / Polish United Workers' Party (PPR/PZPR) on military district courts using the example of the Military District Court in Katowice/Stalinogrod (1946–1955)]. In: KAMIŃSKI, Ł. – PRZEPERSKI, M. (ed.). *The Winter School of Contemporary History 2016*. Warszawa: Wydawnictwo Instytutu Pamięci Narodowej, 2017, p. 98.

⁴⁵ AIPN, 2386/17294, Materiały na prokuratorów wojskowych i sądy z 1951 [Documents about military prosecutors and courts in 1951], pp. 105, 133, 137, 149, 167, 169; AIPN Ka, 04/812, Teczka Kontrolno-Obszerwacyjna nr 22728 [Dossier of observational studies no 22728], pp. 33, 92–94, 105–106; AIPN Ka, 08/2142, Teczka Kontrolno-Obszerwacyjna nr 2414 [Dossier of observational studies no 2414], p. 20; TKACZEW, W. *Organa Informacji Wojska Polskiego. Kontrwywiad wojskowy 1943–1956* [The Polish Army Information. Military counter-intelligence 1943–1956]. Warszawa: 2007, pp. 57–62, 270–271; MUSIAŁ, *op. cit.*, pp. 196–202; PTASZYŃSKI, R. *Sędziowie Wojskowego Sądu Rejonowego w Szczecinie i ich wyroki. Studia i materiały* [Judges of the Military District Court in Szczecin and their sentences]. Szczecin: Wydawnictwo Instytutu Pamięci Narodowej, 2008, p. 18; PTASZYŃSKI, R. *Wojskowy Sąd Rejonowy w Szczecinie...*, pp. 249–251, 255.

⁴⁶ POKSIŃSKI, „My, sędziowie, nie od Boga...”, pp. 23–25.

⁴⁷ SZWAGRZYK, *Prawnicy czasu bezprawia. Sędziowie i prokuratorzy wojskowi w Polsce 1944–1956*, pp. 139, 142, 144, 373, 444–447.

⁴⁸ *Ibidem*, pp. 344–345, 392, 399–400, 410.

⁴⁹ *Ibidem*, pp. 302–303; PASZEK, M. Wojskowy Sąd Rejonowy w Katowicach (1946–1955) [The Military District Court in Katowice (1946–1955)]. *Z Dziejów Prawa*, 2015, no 8 (16), p. 101.

Parzeniecki – Gdańsk).⁵⁰ In 1945, there were 10% of the Red Army officers in Polish Courts and Prosecutor Offices. In the first years of post-war Poland, many obedient pre-war lawyers were engaged in the most complicated political cases (especially participation in illegal organizations). Even 70% of pre-war lawyers worked as a judge in the military courts.⁵¹

Why well-educated lawyers started and continued work in the military judicial system of communist Poland? Why judges issued judgements in a breach with what they had learned, and let themselves be used as a tool of communists? Why did the judges of military courts betray the principle of independence of courts? Why did they betray the principle of independence of the judiciary? Why did the judges betray the principles of criminal proceedings?

There are no simple answers to those questions. Some of them were opportunists, others just wanted to do their job, and still others believed in what they did (“*Dura lex sed lex*” – “It is harsh, but it is the law”). Maybe they believed in the Party or they believed in communism. Maybe they were afraid of the Public Security authorities or the Polish Army Information.

From 1948 disobedient pre-war lawyers were expelled from the service of justice. The judges who the communist authority did not trust, were replaced by the staff educated in the People’s Republic of Poland. In mid-1948, the Officer Law School was established to educate new indoctrinated judges.⁵² This secondary law school admitted only applicants from the working or peasant class with a referral given by political and social organizations. The courses lasted from 12 (twelve) to 18 (eighteen) months and provided minimum of legal knowledge.⁵³ The graduates were supposed to replace the pre-war lawyers with a university education, as well as the court heads. The staff selection was particularly insightful. The judges were assessed. The most important criterion was their availability. The authorities needed obedient people who followed the party policy. The military judges were expected to approve the new system, be loyal to the ruling party and analyse the criminal cases in political terms in line with the current criminal policy. All modifications in the legislation and judicial system were introduced to subordinate the law and the courts to the political objectives.

In the beginnings of the Polish People’s Republic probably the greatest judicial crime took place in the Military District Court in Katowice. Anna Krużolek, accused of helping members of the anti-communist organization, was sentenced to be executed even though no evidence proving her guilt was revealed during the trial. Upon a revision, the Supreme Military Court set aside the judgement. However, the death penalty was executed two

⁵⁰ SZWAGRZYK, *Prawnicy czasu bezprawia. Sędziowie i prokuratorzy wojskowi w Polsce 1944–1956*, p. 396; BURCZYK, *D. Wojskowy Sąd Rejonowy w Gdańsku...*, pp. 396–397; KOWALSKA, H. *Sądownictwo w Marynarce Wojennej w latach 1945–1955* [Jurisdiction in Navy from 1945 to 1955]. Gdańsk-Warszawa: Wydawnictwo Instytutu Pamięci Narodowej, 2017, pp. 274–275.

⁵¹ MUSIAŁ, *op. cit.*, p. 154; BURCZYK, *D. Wojskowy Sąd Rejonowy w Gdańsku...*, pp. 175–182.

⁵² ZABORSKI, M. Szkolenie „sędziów nowego typu” w Polsce Ludowej. Cz. III: Oficerska Szkoła Prawnicza [The education of “judges of new type” in the Polish People’s Republic. Part III: The Officer Law School]. *Palestra*, 1998, no 5–6, p. 133.

⁵³ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, p. 51; ZABORSKI, *Szkolenie „sędziów nowego typu” w Polsce Ludowej*, p. 136.

weeks later by an order issued by the Head of the MDC in Katowice (Court of First Instance) under the overruled judgement.⁵⁴

To conclude, the military courts were a tool of the communist authorities in their fight against their political enemies, the so-called “enemies of the people”. From 1946 to 1947 the military courts were used to legalize the combat with the anti-communist military underground. After the suppression of the resistance movement, in 1948 anybody (an ordinary citizen) could be accused if they were perceived as a potential enemy. The judges betrayed the principle of independence. They obeyed instructions of the governing party. They let themselves be used as a tool of the communist government. They discredited themselves personally and the entire justice system. As a consequence of the changes, the rights of the accused individuals and human rights were degraded, which contributed to turning Poland into a totalitarian state subjected to the communist party. The military courts were a repression organ against the opponents of the communist authority. They were a part of the terror machine created after World War II by Lenin’s words: “The courts must not ban terror (...) but must formulate the motives underlying it, legalise it as a principle, plainly, without any make-believe or embellishment.”⁵⁵

⁵⁴ AIPN Ka, WSR Ka, 256/2 t. 1, Akta sprawy R 1114/46 przeciwko Józefowi Gabzdylowi, Teofilowi Młotkowi, Annie Krużolek i innym [Dossier of criminal proceedings of Józef Gabzdyl, Teofil Młotek, Anna Krużolek and others], pp. 314–321, 334. KURPIERZ – PIĄTEK, *op. cit.*, p. 360; PASZEK, M. Odpowiedzialność sędziów Wojskowego Sądu Rejonowego w Katowicach za zbrodnie sądowe (1946–1955) [Responsibility of judges of the Military District Court in Katowice for judicial crimes (1946–1955)]. *Czasopismo Prawno-Historyczne*, 2015, no 2, pp. 205–207.

⁵⁵ LITYŃSKI, *O prawie i sądach początków Polski Ludowej*, p. 62.