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## Time of war and martial law , relations, mutual dependencies and legal, organisational and functional dilemma

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### Abstract

**Objectives:** The aim of the article was to solve the research problem included in the question: Can we adopt specifically defined procedures that define imposing of "martial law", "state of war" and "time of war"?

**Methods:** The methods adopted in the research process are primarily critical analysis of a wide spectrum of source materials, including compact items, scientific articles, legal acts, theoretical methods characteristic for security science, i.e. analysis, synthesis, comparison, inference and abstraction, were supplemented by participatory observation.

**Results:** Although the procedures for imposing "martial law", "state of war" and "time of war" have been defined at the level of the Constitution of the Republic of Poland and ordinary legislation, the applicable legal order does not formulate norms that would systematically develop these concepts in a defined form. This problem, which at times takes on the consequences of the lack of a common position of theoreticians and practitioners, raises concerns from the point of view of the legal system.

**Conclusions:** The conclusions of the article show that it is difficult to clearly set the procedures defining the direct use of the definitions of "martial law", "state of war" and "time of war". A lot of scientists are having a discussions about this. There is also a whole range of documents and legal acts that do not generally regulate the security and defense of the state, but some of their provisions refer to "time of war", "state of war" and "martial law".

## **Introduction**

Precise legal provisions regulating the mode and manner of reaction of its structures and appropriate procedures are necessary for the efficient and effective functioning of the state, especially in the event of a threat to its security. However, it may be doubted whether some regulations in this area are sufficiently unambiguous to reflect the objective assumed by the legislator, also acting in the constitutional formula of the National Assembly, which is based on their adoption (*ratio legis*). Normative acts in force in the Republic of Poland repeatedly use the terms: "time of war", "state of war" or "martial law", which are terms often used inconsistently. W. Kitler notes that in the described matter there is a "lack of definition of specific concepts" (Kitler, 2011 p. 45), which results in the intensification of problems related to their use. It is not uncommon for these terms to be used interchangeably, although they are not identical. This creates a situation in which the lack of a legal definition affects the multitude of their interpretations, and therefore also the issue of national security. This work is an attempt to approximate the concepts of "time of war", "state of war" and "martial law", to define dependencies and relations between them, as well as to approximate the organizational, legal and functional dilemmas related to them.

### **1. Definitions and mutual relations – state of war, time of war and martial law**

For the purposes of this work, it will be helpful to introduce the concept of "war" in the basic approach, i.e. in the understanding of the international law of armed conflict. Over the centuries, the concept of war has been defined in many ways. For example, Hugo Grotius defined it "as the state in which there is a dispute by force", while the war theorist Carl von Clausewitz believed "that war is only a continuation of politics by other means and an act of violence aimed at forcing the opponent to do his will". The multiplicity of definitions makes it not easy to include this concept in legal terminology. War is very often identified with its consequences and legal consequences in the international sphere automatically refer to the international law of armed conflict, commonly and traditionally referred to as the law of war.

As experts in international law generally point out, war is the rupture of peace relations between states and the beginning of hostile actions that are characterized by armed struggle.

J. Białocerkiewicz assumed with some simplification that "war is a state of relations between states in which a sharp conflict arising on the basis of the current policy is resolved with the help of part or all of the political, military and economic forces at the disposal of these states" (Białocerkiewicz, 2005, p. 440).

It is worth mentioning that after World War II, the UN Commission on International Law decided that since war is illegal, it is pointless to deal with the regulations that apply to it. It is also not surprising that most of the current laws on armed conflict do not correspond to the modern understanding of conflict and it is difficult to find a legal definition of war (Kołodziejczak, 2018, pp. 36-39).

In the dictionary of terms related to national security, defining contemporary situations, it is stated that "war" is "the continuation of politics by means of violence, the main manifestation of which is armed struggle" and "the state of functioning of the state characterized by the existence of a sharp external or internal conflict resolved by means of violence, involving the bulk of the state's potential". To put it simply, in some part, one can agree with the first definition, even though war does not always have to be a continuation of politics, and armed struggle does not have to take place at all. On the other hand, it should be remembered that in the meaning of public international law, internal struggles in which another entity does not participate cannot be called a war (Kaczmarek, Łepkowski, Zdrodowski, 2002, p. 156).

Armed conflict is also important for the discussed issue, which this concept must be distinguished from the concept of war. The main difference lies in the subjects between which it is turned. It does not always include subjects of public international law, but its parties may remain, for example: terrorist groups, rebels, armed bands. It is worth emphasizing that this is a distinction made from the perspective of legal sciences, because in international relations it is sometimes interpreted or understood differently. For example, the Stockholm Peace Research Institute (SIPRI) has a different qualification, taking the number of victims as a scale. This qualification was based on mathematical rules, according to which military actions result in the death of more than 1,000 victims per year characterizes war, while number below this value characterizes armed conflict (Białocerkiewicz, 2005, p. 464).

Due to the lack of a uniform and compact legal definition, it is often impossible to unequivocally qualify certain events or actions, because it is difficult to say whether we are dealing with an armed conflict or an ongoing war.

The definition of "time of war" may cause doubts, because there are no legal regulations defining such a situation. It can be considered that this concept is opposite to "peacetime" and refers to actual military actions and events related to armed conflict (Bukowicka, 2013, p. 138.).

In the "Dictionary of National Security Terms", the term "time of war" is defined as "the period of functioning of the state characterized by the existence of a sharp conflict, in which the settlement of disputes between warring (antagonistic) parties (states, blocs of states, nations, social groups) is carried out by means of violence (using armed forces) in order to achieve

specific political, economic, ideological or other interests" (Kaczmarek, Łepkowski, Zdrodowski, 2008, p. 29). It seems that the definition of "time of war" should be identical with the definition of "war", with one detail – this expression should refer to the period of actual hostilities. Therefore, it is not entirely acceptable that this time can occur in any other case than only in the course of military operations between states (Kołodziejczak, 2018, p. 55.).

The concept of "state of war" also raises doubts. Although this concept has not been defined in the Constitution of the Republic of Poland, it traditionally refers to the definition of a special relationship between states. It is therefore an institution directly related to international relations (and thus international law), which fundamentally distinguishes it from martial law or emergency, which in turn refer to internal relations in the state. This is also evidenced by the systematics of the Constitution of the Republic of Poland and it does not seem merely a coincidence (or tradition) that the institution of a 'state of war' has been normalised outside the chapter on states of emergency" (Garlicki, 2016, p. 5).

Basically, a "state of war" begins with the declaration of war and ends with the conclusion of peace. The imposition of this state "entails consequences resulting from international laws, i.e. m.in the possibility of starting military operations, breaking diplomatic relations, limiting the rights of citizens of a state party, etc. (Garlicki, 2000, p. 424).

On the other hand, "martial law" is one of the states of emergency that can accompany the "state of war" and fall on the "time of war", it can also be introduced before the decision on the "state of war" is made and before the start of hostilities (before the "time of war") and last after their end (Winczorek, 2000, p. 147). It consists in introducing certain modifications in relation to the regulations concerning the functioning of state structures and the legal situation of citizens, of course within the limits set by the provisions of the Constitution of the Republic of Poland. The imposing of "martial law" creates conditions for various types of extraordinary activities, improving the functioning of the state, and above all gives the opportunity to limit the freedom and rights of citizens (Surmański, 2014, p. 97).

## **2. Problems of the indeterminacy of the concept of "time of war"**

In Polish law, the term "time of war" appears in several dozen acts of generally applicable and internal law. It is worth noting that the most important acts among these acts concern both many areas of state activity, i.e. the functioning of public administration bodies, as well as entrepreneurs and other organizational units, social organizations and natural persons. The most

important and numerous, taking into account national security considerations, are laws relating to defense matters, including the Polish Armed Forces (Surmański, 2014, p. 97).

These laws, apart from specific provisions of the Constitution of the Republic of Poland, include i.a.:

- Act of 11 March 2022 on the Defence of the Homeland;
- Act of 29 August 2002 on martial law and on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional organs of the Republic of Poland; Act of 14 December 1995 on the office of the Minister of National Defence;
- Act of 24 August 2001 on the Military Police and Military Law Enforcement Agencies;
- Act of 17 December 1998 on the rules of use or stay of the Armed Forces of the Republic of Poland outside the country;
- Act of 10 December 1993 on pension provision for professional soldiers and their families,

and in addition:

- Act of 12 October 1990 on the Border Guard;
- Act of 9 April 2010 on the Prison Service;
- Act of 18 February 1994 on pension provision for officers of the Police, Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Guard, Government Protection Bureau, State Fire Service and Prison Service and their families.

There is also a number of laws in Polish legislation, which in principle do not regulate the security and defense of the state, but some of their provisions refer to the "time of war".

Such laws include i.a.:

- Act of 8 December 2006 on the Polish Air Navigation Services Agency;
- Act of 3 July 2002 – Aviation Law;
- Act of 16 October 1992 on Orders and Decorations.

It should be remembered that, in addition to the implementing acts to the above-mentioned legal acts, many other documents have been developed on the issue of "wartime", taking the form of strategies, doctrines, plans and operational programs.

In addition, the above-mentioned provisions are of paramount importance both for the process of defense preparations and the functioning of the state in war conditions, as well as for the freedoms and rights of man and citizen and the duties of citizens. On the one hand, they concern the relevant structures of the state, giving them the optimal competences for the conditions of "wartime", other subordination and location among the entities responsible for national security. On the other hand, they impose on citizens often inconvenient tasks and duties (e.g. defense services, other rules and conditions for performing tasks or performing service). (Surmański, 2014, p. 100.) . To illustrate the problems related to the interpretation and application of regulations using the term "time of war", it is worth recalling some constitutional norms basic for the functioning of the state and its legal order. In particular, it is Article 134(4), which sets out the circumstances for the appointment of the Supreme Commander of the Armed Forces, and Article 175(2), which refers to the possibility of establishing exceptional courts and the ad hoc procedure. If the interpretation of these provisions is accepted, according to which "time of war" means practically the same as "state of war", it should be assumed that the appointment of the Supreme Commander of the Armed Forces should take place only after the formal adoption by the Parliament (or after the issuance of an appropriate decision by the President of the Republic of Poland) of the "state of war", and this position should be filled until the formal conclusion of peace. This article is obligatory, so in "wartime" this position must function in the legal order. In accordance with the Act on Martial Law and on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland, it is possible to appoint this commander by the President of the Republic of Poland, at the request of the Prime Minister, even before the occurrence of "war time" (i.e. during martial law), which is the most correct solution. It allows the Polish Armed Forces to prepare to repel an armed attack on the Republic of Poland, or to perform other tasks related to defense by this command body. All this could take place even before the decision to introduce a "state of war" by the Parliament (or the President of the Republic of Poland) is made. It is also worth mentioning that according to Article 116(2) of the Constitution of the Republic of Poland, which reads "the Parliament may adopt a resolution on the state of war only in the event of an armed attack on the territory of the Republic of Poland or when international agreements result in an obligation to jointly defend against aggression. If the Parliament cannot meet for a sitting, the State of War shall be decided by the President of the Republic." Therefore, it is possible that Poland will provide military assistance to another country as part of allied obligations, declaring war on the aggressor. As a consequence, Poland may formally remain in a "state of war" with the aggressor, however,

military operations will not be carried out on the territory of the Republic of Poland. In these circumstances, there is a fundamental doubt as to the legitimacy of appointing the Supreme Commander of the Armed Forces, since his competences are aimed at repelling an armed attack on Polish territory.

A specific filling of this legal gap, using the procedural aspect, is contained in Article 24(1)(7) of the Act of 11 March 2022 on the Defence of the Homeland, empowering the President of the Republic of Poland to decide, if necessary to defend the state, at the request of the Council of Ministers, on the date on which the time of war begins on the territory of the Republic of Poland and to decide in the same manner on the day, in which the time of war on the territory of the Republic of Poland ends.

Determining the moment of commencement of the time of war is the basis for launching a whole range of legal solutions related to its validity, i.a. the obligation to appoint the Supreme Commander of the Armed Forces, or the possibility of establishing an exceptional court or an ad hoc procedure, which, according to the authors, is a filling of the legal gap related to the lack of definition of wartime.

### **3. State of war and martial law**

Article 229 of the Constitution of the Republic of Poland formulates three conditions for the imposing of martial law. These are: an external threat to the state, an armed attack on the territory of the Republic of Poland and the obligation to defend themselves jointly against aggression resulting from the international obligations adopted by the Republic of Poland. The latter condition is the result of international obligations and therefore moves directly into the sphere of international law. The external threat of the state also includes elements entering the sphere of international relations. This is illustrated by Article 2(1a) of the Act of 29 August 2002 on martial law and on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional organs of the Republic of Poland, which reads: The external threat to the state referred to in paragraph 1 shall be understood as deliberate actions that undermine the independence, indivisibility of the territory, an important economic interest of the Republic of Poland or aimed at preventing or seriously disturbing the normal the functioning of the state, undertaken by entities external to it. Armed aggression, on the other hand, is often confused with armed aggression, which in turn outlines the basis for the imposition of a state of war. It does not coincide with the commitment to joint defense against aggression (Juchniewicz, 2014, p. 288). Article 116 of the Constitution of the Republic of Poland also provides for the possibility of imposing a state of war, which is a category of

international law. Two prerequisites are envisaged for the imposition of a state of war in the Polish by the authorities. These are armed assault on the territory of the country and the case when the agreement obliges to joint defense against aggression. The above catalogue is of a closed nature. In relation to the second condition, there is no requirement to conduct military activity, since such needs are not necessary. In addition, this threat cannot be directly directed at the Republic of Poland. Poland can also fulfill its obligations in a different way than through military activity.

The Polish Basic Law also indicates the objectives of imposing a state of war. These are the protection of the sovereignty of the country, its security, as well as the inviolability and indivisibility of the territory of the Republic of Poland. (Kęsoń, 2014, p. 145).

It should be emphasized that a state of war can be imposed in parallel with martial law. Such a situation will occur at the moment of actual threat to the territory of the Republic of Poland, but it is also important to be able to impose it at a later time. The previously discussed case will take place at the time of the Republic of Poland's fulfillment of international obligations regarding joint defense against aggression. In addition, it can be noted that there is no connection between the laws on the state of emergency and martial law, as well as on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland. This is a weakness in the organization of the Polish state in the event of the occurrence of all these states at the same time, which may potentially take place (Kitler, 2018, p. 71).

The body responsible for the imposition of martial law is the President of the Republic of Poland, who makes this decision at the request of the Council of Ministers. This solution requires joint cooperation between the two authorities. It is necessary to have one of the three prerequisites for the imposition of a state of war, which were discussed earlier.

The application presented by the Council of Ministers should contain the indicated threat, consultations held and the justification of the competent minister. If the President of the Republic of Poland accepts the request, the imposition of martial law should take place as soon as possible so that the potential threat can be neutralized. The last stage of the imposition of martial law is the issuance of an appropriate regulation by the President of the Republic of Poland. In the event of a state of war, the body responsible for its imposing and termination is the Parliament. That body shall take its decisions by a majority vote in the presence of not less than half of its Members. If, for example, there is no minimum number of eligible persons, the right of legislation is taken over by the President of the Republic of Poland. As in the case of martial law, his decision issued by regulation is subject to an additional signature of the Prime



Minister. Publication in the Journal of Laws is also obligatory. In addition, the specificity of managing the state, and mainly its defense, requires the adoption of the principle of one-man management and responsibility. Currently, a dilemma arises because, on the one hand, the powers of the President of the Republic of Poland determine him as an authority to manage national security, while on the other hand, a multitude of arguments speaks in favor of the Council of Ministers. Without the amendment of the Constitution of the Republic of Poland, this *lis pendens* will not be resolved, because this act does not specify who is responsible for exercising the leadership, leaving it to the Act on Martial Law and on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland and the Act on the Defense of the Homeland (Kitler, 2018, p. 292). Article 229 of the Constitution of the Republic of Poland allows the imposition of martial law on part or all of the territory of the Republic of Poland. This limitation is related to the constitutional principle of proportionality. It indicates that any action taken as a result of imposing of the state of emergency must be adequate to the degree of threat posed. It should be noted that the Polish Basic Law does not specify restrictions related to the duration of martial law. It must therefore be concluded that it is theoretically unlimited. The literature on the subject indicates that the special regime should be terminated when all the conditions that were the reason for its imposition are eliminated (Buttercup, 2005, p. 151) The state of war, in turn, covers the entire state. For obvious reasons, it is not possible to determine its exact duration, but the formal element of ending the state of war will be, for example, the conclusion of a peace treaty. In the case of the imposing of martial law, it is inevitable that the rights and freedom of citizens will be restricted. This can only be regulated by law. The implementation of restrictions on rights and freedoms must only serve to guarantee security and public order. Martial law entitles the President of the Republic of Poland to issue regulations with the force of laws. Such a situation may occur when the Parliament is unable to meet due to the situation prevailing in the state. In the case of actual hostilities (time of war), the duty of the President of the Republic of Poland will also be to appoint the Supreme Commander of the Armed Forces, who takes command of the Armed Forces. In turn, the transition to a state of war will result in a change in diplomatic relations into the sphere of the so-called law of war, the main purpose of which is to ensure, as far as possible, the humane conduct of war. After the transition to war, there will also be a suspension or complete interruption of, for example, consular or economic relations.

In addition, the legal situation of citizens Polish in the territory of the aggressor state may change significantly.

## Conclusion

Although the procedures for imposing "martial law", "state of war" and "time of war" have been defined at the level of the Constitution of the Republic of Poland and ordinary legislation, the applicable legal order does not formulate norms that would systematically develop these concepts in a defined form. This problem, which at times takes on the consequences of the lack of a common position of theoreticians and practitioners, raises concerns from the point of view of the legal system. It should be emphasized that in accordance with Article 5 of the Constitution of the Republic of Poland, according to which "the Republic of Poland shall guard the independence and inviolability of its territory, ensure the freedoms and rights of man and citizen as well as the security of citizens, protect the national heritage and ensure environmental protection, guided by the principle of sustainable development", broadly understood defence has been given the highest rank. This has been repeatedly pointed out by the Constitutional Tribunal, including in the explanatory memorandum to the judgment of 31 July 2001, giving defence the attribute of the overriding function of the state (Judgment of the Constitutional Tribunal of 3 July 2001, ref. K3/01, OTK ZU 2001, No. 5, item 125). This places additional responsibilities on the legislative and executive branches. The Parliament and the Senate are obliged to take into account defence needs in the process of creating law and to integrate them into the existing legal order, in a way that ensures systemic uniformity and consistency. On the other hand, the Council of Ministers and the President of R.P. are obliged to assess the effectiveness and adequacy of the legal solutions in force in the area of defence, in terms of changes taking place in the closer and further security environment, and to undertake the necessary law-making initiatives as a result of these assessments (Padzik, 2018, p. 118), including those relating to the issues presented in this article. Although the stability of the law is a desirable factor in many areas of social life, in the sphere of defence it may lead to stagnation in a short time, especially in the current international situation related to Russia's aggression against Ukraine.

## References

- Białocerkiewicz, J. (2005) Public International Law. Outline of the lecture, Olsztyn, pp. 430-443.
- Bukowicka, S. (2013) Selected issues within the scope of tasks of the Minister of National Defence during the war, [in:] Minister of National Defence and Supreme Commander of the Armed Forces in the security management system. Selected problems, Warsaw.
- Garlicki, L. (2016), Constitution of the Republic of Poland Volume 1, Commentary, Warsaw.
- Garlicki, L. (2000) Polish Constitutional Law. Lecture outline, Warsaw.
- Jaskiernia, J. (2011) Normative acts in states of emergency, [in:] Constitutional system of sources of law in practice, Warsaw. pp. 15-18; digital object identifier:<https://doi.org/10.15804/ppk.2011.01.11>.
- Juchniewicz, J. (2014) Emergency States, Constitutional Law, Warsaw. Digital object identifier: 10.19195/0137-1134.106.4.
- Kaczmarek, J., Łepkowski, W., Zdrodowski, B. (2008) Dictionary of National Security Terms, Warsaw.
- Kęsoń, T. J. (2014) Annals of International Security No. 2, State of War and Martial Law – Formal and Legal Issues, pp. 145.
- Kitler, W. (2011) National Security of the Republic of Poland. Basic categories. Conditions. System, Warsaw.
- Kitler, W. (2018) Organization of national security of the Republic of Poland, Constitutional, legal-administrative and systemic aspects, Toruń.
- Kołodziejczak, M. E. (2018) Yearbook of Legal Sciences ed. no. 4, Legal definitions regulating wars and related terms, Warsaw, digital object identifier: <http://dx.doi.org/10.18290/rnp.2018.28.4-4>.
- Padzik, J. (2018) National Security Studies, The role and significance of The norm of Article 5 of the Constitution of the Republic of Poland for the area of law shaping the state defense system. Warsaw.
- Paździor, M., Szmulik, B. (2012) States of Emergency, Institutions of National Security, Warsaw.
- Surmański, M. (2014) National Security ed. No. 2, The concept of "time of war" and problems resulting from its indeterminacy in the Polish legal system, Warsaw, pp. 97-105.
- Winczorek, P. (2000) Commentary on the Constitution of the Republic of Poland, Warsaw.
- Wiśniewski, L. (1997) States of emergency in the draft of the new Constitution RP. In Human Rights in an Emergency, Toruń.
- Wołpiuk, W. (2002). The state in the face of special threats. Comment selected provisions of the Constitution of the Republic of Poland of April 2 1997, Warsaw.

## Other sources

- Act of 11 March 2022 on the defence of the Homeland (Journal of Laws of 2022, item 655).
- Act of 29 August 2002 on martial law and on the competences of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland (Journal of Laws of 2017, item 1932).

Act of 14 December 1995 on the office of the Minister of National Defence (Journal of Laws of 2019, item 196).

Act of 24 August 2001 on the Military Police and Military Law Enforcement Bodies (Journal of Laws of 2021, item 1214).

Act of 17 December 1998 on the rules of use or stay of the Armed Forces of the Republic of Poland outside the country (Journal of Laws of 2021, item 396).

Act of 10 December 1993 on pension provision for professional soldiers and their families (Journal of Laws of 2022, item 520).

Act of 12 October 1990 on the Border Guard (Journal of Laws of 1990, No. 78, item 462).

Act of 9 April 2010 on the Prison Service (Journal of Laws of 2021, item 1064).

Act of 18 February 1994 on pension provision for officers of the Police, Internal Security Agency, Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Guard, Government Protection Bureau, State Fire Service and Prison Service and their families (Journal of Laws of 2020, item 723).

Act of 8 December 2006 on the Polish Air Navigation Services Agency (Journal of Laws of 2006, No. 249, item 1829).

Act of 3 July 2002 – Aviation Law (Journal of Laws of 2020, item 1970).

Act of 16 October 1992 on orders and decorations (Journal of Laws of 2020, item 138).

Constitution of the Republic of Poland of 2 April 1997 adopted by the National Assembly on 2 April 1997, adopted by the Nation in a constitutional referendum on 25 May 1997, signed by the President of the Republic of Poland on 16 July 1997 (Journal of Laws of 1997, No. 78, item 483).