

Constitutional Public Burdens as Part of the Defence Economy

Konstytucyjne ciężary publiczne jako element gospodarki obronnej

Introduction

The issues which constitute the area of this discussion are of a legal-economic nature, as the subject of the analysis is both within the scope of interest of legal studies, military economics and defence economics – constituting part of detailed economics (Lange, 1969, p. 126). The system of national economy includes the system of national defence, which distinguishes several types of defence economy: (i) peaceful defence economy, (ii) war alert economy, (iii) war economy (Kurek & Płaczek, 2009, p. 140). Besides, an economic process – including the process related to the economic side of national defence – is, as a whole, the domain of political economics, which is of an interdisciplinary nature (Wilczyński, 1958, pp. 135–158), and political economics sometimes refers to the normative character of legal institutions.

Nowadays, scientific analyses pay more and more attention to mutual relations between law and economy and to the role of law in shaping and, in particular, reforming economic relations, which is obviously related to the possibilities of shaping economic relations by means of legal regulations (Komar, 1982, p. 25). The most vivid interest in this issue can be found on the grounds of the economic analysis of law in the form of an economic theory of property and the economics of property rights, e.g. in the field of expropriation for public purposes and protection in cases of such violation of property rights (Cooter & Ulen, 2011, pp. 207–230).

In view of the above, in the following part, the author will first draw attention to a legal institution of a constitutional character – the category of public burdens, and then attempt to address the nature of these constitutional obligations on the grounds of military economy and defence economics. Once a specific image of public burdens through such an analysis is presented, a synthetic analysis of these burdens, namely personal and in-kind contributions will be made. Finally, the author will try to synthesise the analysis carried out, taking into account the results of the study of the subject of this research (Konarski, 2020a, pp. 83–109, 2020e, pp. 43–60).

The aim of the analysis is first of all to point out the correlation between the needs of the defence economy and public burdens, which derive their source from constitutional provisions. These issues have not yet been widely discussed in the relevant literature on the subject, so the deliberations in this article are primarily intended to draw attention to the normative character of public burdens and their position as an element of the defence economy. It should be stressed, however, that both the complexity of the presented problems and the limited editorial framework of this publication do not allow for a comprehensive analysis of a number of problems arising from “the essence” of the considerations (e.g. concerning the nature of public burdens in relation to freedom and human and civil rights in the situation of the introduction of a state of natural disaster or martial law). In view of this, it is necessary to indicate the need for further research in this area, which will constitute the subject of scientific investigations in another place.

1. The concept and nature of public burdens

The European and American revolutionary experiences at the turn of the 19th century were fundamental to the development of modern constitutionalism (Hayek, 2011, pp. 180–195; Konarski, 2016, pp. 32 and 44–46, 2019b, pp. 23–46). It was due to the dogmas expressed at the time in the political assumptions creating constitutional states that the idea of public subjective rights and rights of the citizen first appeared (Konarski, 2012, pp. 528–529), along with the definition of civic duties, among which public burdens and contributions belong to the most bothersome duties.

With the progress of civilization and the development of modern liberal democracy, these constitutional duties have taken on a more pronounced normative character. Despite this, however, the legal construction of these burdens

has not changed much for over 200 years. In the past, as in modern times, the burdens discussed here have been primarily associated with the preparation of the economy and its mobilisation in the event of war or a state of natural disaster. Thus, just like today, these burdens have taken the form of personal and in-kind contributions.

Public burdens, which are the subject of the article, will thus mean a duty imposed by way of administrative proceedings (the Act of 14 June 1960 – the Code of Administrative Procedure) to provide a natural, non-monetary contribution to a certain administrative goal, and the subject of these burdens are either personal or in-kind contributions. The former involve putting human labour to use by state bodies, in performing certain works or providing certain services involving any physical and mental human labour, etc., while the latter consist in providing the public (military) administration with certain things for use or consumption, and thus in providing in-kind resources for a specific public undertaking.

In the past, these burdens directly concerned various types of personal services in the form of the obligation to perform military service, to defend towns and to build various types of fortifications, etc. (Konarski, 2020d, pp. 12–19 and 29–31; Mikula, 2020, pp. 595–598). With regard to in-kind contributions, the obligations concerned the provision of quarters for the army or individual servicemen, the provision of transport for the army and the widely understood military administration, the provision of food, both for the army and for draught animal as well as the provision of other items needed from the point of view of military demand (Konarski, 2019a, pp. 121–133, 2020b, pp. 22–35, 2020c, pp. 99–128, 2020d, pp. 19–29, 2020f, pp. 78–89; Olejniczak, 2009, pp. 25–66).

At present, on the basis of the Constitution of 1997 in force in Poland, “everyone is obliged to comply with public burdens and contributions, including taxes, specified by statute” (The Constitution of the Republic of Poland of 2 April 1997). This constitutional norm has traditionally been associated in the Polish legal system with constitutional issues relating to civic duties of a public nature (Zięba-Żałucka, 2001, pp. 117–124 and 137), and these duties largely stem from the expressed order to defend the Homeland (Kozłowski, 2020, pp. 196–211), which constitutes their teleological character.

Since the rebirth of the Polish state in 1918 every normative act of constitutional status has contained provisions on this matter. It should be stressed, however, that despite the fact that there is a legal tradition in this regard going back many centuries – which will be discussed in more detail later in this analysis – so far the notions of public burdens and contributions have not been clarified

either theoretically or normatively, and their meaning must be determined on the basis of the wording of the terms and the context in which they are used (Huchla, 2010, p. 139). The closest in their normative structure to the concept of burdens and public contributions are old Polish burdens resulting from feudal land serfdom, which took the form of various obligations that the people living on Polish soil were obliged to fulfil for the benefit of public authorities (Konarski, 2020b, pp. 22–23). Through the evolution of these burdens, along with the formation of modern forms of the political system of the state, these burdens and contributions have been adapted by custom to the needs of the modern state (transport duty, military quartering duty, local taxes, direct taxes for the local government, etc.). Ultimately, therefore, in legal scholarship on constitutional and administrative law, it is assumed that public burdens are duties imposed on individuals, which are contributions of something to the public administration (Szalewska, 2012, pp. 510–513), and this is how they are understood here. It should be added that public burdens therefore, as a rule, mean material (personal and in-kind) contributions, which distinguish them from public contributions of a monetary nature. At this point, one should also remember about the institution of public levies, which, being a part of the constitutional category of public burdens and contributions (Antonów, 2016, pp. 10–12; Krzywoń, 2011, pp. 47–58), mean financial obligations of individuals, enforced in order for the state to fulfil its constitutional tasks (the fiscal purpose).

The universality of such obligations means that, as far as their subjective scope is concerned, they lie with every person subject to the authority of the Republic of Poland. Therefore, these burdens can also be borne by other entities than only Polish citizens, which is why public international law has also been a subject of research in this respect. From the point of view of this branch of law, the issues of contributions of a military nature are related to the norms of requisitioning, i.e. compulsory contributions for the occupying power (Przygodzki, 2001, pp. 125–140). The expropriation of real estate and movable property in the course of military operations, i.e. their requisitioning, has been known for centuries, and in the past it often took the form of illegal plundering of individual components of the national economy (Kołodziej, 2018, pp. 62–65 and 78–96; Krokosz, 2015, pp. 144–145 and 148–150; Łopatecki, 2016, pp. 59–88; Nabel, 1959, pp. 128–135).

Obviously, this kind of obligation resulting directly from the constitutional provisions also has a different character. It constitutes a duty that can be qualified as a duty of social character, i.e. one that is performed by individuals for the benefit of the state, the whole of society, the community (Szalewska, 2012, pp. 504–505). The overriding goal here is of course the common good. It should

be remembered that public administration would not be able to fulfil its tasks on its own without the cooperation of its subordinate units and the burdening of a whole range of different duties, a large part of which, as noted above, is borne by all the inhabitants residing within the territory of the state and subject to its authority (Kasznica, 1946, pp. 123–124).

When considering issues related to the duty to bear public burdens in the form of in-kind contributions, it should be emphasized that such burdens constitute a breach of the principle of inviolability of private property (requisitioning, expropriation of real estate, obligation to provide means of transport). However, it is recognized that the private interest of an individual must, in urgent cases, give way to the interest of the whole society, which becomes exceptionally important when the existence of the state is threatened due to, for example, war (Okolski, 1884, pp. 35–42). This means that the situations in which private property is violated by public authorities are, as a rule, not notorious, but the obligation to meet them arises from the occurrence of extreme, extraordinary situations, such as martial law, a state of war or a natural disaster. It should be noted at this point that as regards the meaning of the concepts relating to each of these states there are sometimes problems associated with their imprecision (Surmański, 2014, pp. 95–109). In the following part of the analysis, an attempt to prove that public burdens understood in this way are an integral part of the preparation of the national economy for war (defence) purposes will be made.

2. The economic system for defence and war purposes

As already stated above, the system of defence economy plays a significant role especially in peacetime preparations for war, when the material preparation for war comes to the fore, and it is implemented through legislation. As General Stanisław Sosabowski noted before the Second World War, the normative scope of these preparations is so essential for the state that the system of provisions concerning public burdens can be described as the economic constitution of the state (Sosabowski, 1927, pp. 43–60).

Therefore, the tasks of peacetime defence economy also include those related to logistics and preparation of material reserves for the needs of mobilisation development of defence economy and civil-military cooperation (Kurek, 2011, pp. 167–178; Wojciszko, 2009, pp. 102–114). Mobilisation, therefore, means undertaking a series of administrative actions aimed at quick and effective mobilisation

of the war potential for the defence of the state. In the case of a war-preparedness economy, meeting the rapidly increasing needs of the state in a period of crisis or armed conflict requires the adaptation of the economy to the changed conditions of its functioning, which requires a number of undertakings among which is the provision of personal and in-kind contributions ensuring the mobilisation development of the armed forces (Kurek, 2012, pp. 165–166, 2014, p. 66). The task of both defence and war economy will be, in the event of mobilisation or the outbreak of war, to provide materials and equipment for the needs of military operations, including the coverage of losses and the replenishment of materials as needs arise (Zakrzewski, 1938, p. 88). One of the basic means by which this can be done is the system of personal and in-kind contributions (Kłoczewski, 1987, pp. 227–248; Kołodziejak, 1979, pp. 214–230; Konarski, 2021, pp. 66–68). Due to the limited length of this analysis it is impossible to address all the issues arising from the subject of this research. Nevertheless, it should be pointed out for methodological reasons that the aforementioned war economics as a scientific discipline emerged after the First World War (Płaczek, 2014, pp. 41–42) and it is a science of interdependencies between war and economy (Sierpiński, 1961, p. 25), the subject of which is the study of regularities occurring in the process of construction and functioning of the war economy system (Stankiewicz, 1981, p. 19). These interdependencies have occurred with varying intensity since ancient times (Skarżyński, 2014, pp. 17–38).

The subject of defence economics is the functioning of the defence economy taking into account the requirements of peacetime and wartime, while the subject of inquiry in military economics is primarily an interest in the trends and regularities governing the existing military economy (Leś, 1979, pp. 23 and 58). However, one should notice a tendency in recent years to shift the focus of attention of defence economics towards security economics, the research scope of which also includes the issues of non-military dimension in the analysis of which defence economics used to include (Stachowiak, 2010, p. 123). Thus, security economics examines the principles, forms and methods of preparation and functioning of the national economy ready to fulfil tasks for national security, as well as analyses and assesses the state of national economic security in all dimensions of its formation, including the system of contributions, in particular in-kind contributions for defence (Kurek & Płaczek, 2009, p. 136).

As Leś aptly put it, “In the national economy, the combination of defence economy and the military economy forms the economic and defence system of the country. It constitutes the material base of the defence system of states, in which the armed forces play the most important role” (Leś, 1979, p. 23;

Jałowicz, 2009, pp. 93–96). Besides, it should be remembered that the supply of armed forces has always had a profound effect on economic development (Baran & Sweezy, 1968, p. 232), while expropriations (requisitions) carried out by the military have significantly exploited the personnel and material resources of both foreign nations in the case of occupation and its own nation in the case of an armed attack from outside.

Another extremely important aspect related to the discussion concerns planning and organising personal and in-kind contributions necessary for the performance of defence tasks, which includes: (i) determining the needs in terms of buildings, equipment, means of transport and persons, ensuring the performance of defence tasks; (ii) applying to the competent public administration bodies to impose the obligation of in-kind and personal contributions; (iii) creating organisational conditions for receiving contributions. Obviously, applying for personal and in-kind contributions is carried out in accordance with the decisions of the heads of the organisational units, and the tasks related to the acceptance of buildings, equipment and means of transport obtained by means of in-kind and personal contributions are carried out by the organisational unit responsible for administration and logistical security in the Ministry and the organisational units (Order of the Minister of Justice of 8 March 2021 on the Organisation of the Performance of Tasks under the Universal Obligation to Defend).

It should also be remembered that due to material resources, an extremely important task connected with the relations between the defence economy and defence services lies with entrepreneurs, who constitute an essential element of the defence and wartime economic potential (Stankiewicz, 1961a, pp. 45–50), the elements of which are, *inter alia*, production resources constituting their material forces in the field of, for example, transport infrastructure and the provision of transport means for the purposes of national defence. Historiography knows numerous examples of the participation of private capital in the defence and war economy (Kołodziej, 2018, pp. 96–103; Lewicki, 1961, pp. 241–276; Nabel, 1959, pp. 246 ff.). In Poland these issues have been regulated by statute (the Act of 23 August 2001 on the Organisation of Tasks for National Defence Carried out by Entrepreneurs). The regulation in question indicates that the tasks for national defence include mobilisation of the economy in the field of securing national defence needs and for the Armed Forces, as well as supplementing personnel and equipment needs of militarised units. This means that, within the meaning of the Act, tasks for defence may be imposed on entrepreneurs of particular economic and defence importance by way of an administrative decision. Lists of such entrepreneurs are updated annually by means of regulations of the Council

of Ministers (Regulation of the Council of Ministers of 3 November 2015 on the List of Entrepreneurs of Particular Economic and Defence Significance), and individual ministers, within the framework of their respective competences, supervise the implementation of the relevant tasks by entrepreneurs and indicate which entrepreneurs will perform these tasks.

At the end of this part of the analysis it is impossible not to also mention the programming of non-military national defence preparations for actions in the event of a threat to security and war, whose main objective is to determine the ways of performing defence tasks by government and self-government bodies and the use of necessary forces and resources for this purpose (e.g. personal and in-kind contributions), which includes operational planning and defence programming (Kulickowski, 2010, pp. 35–36). An important role in this respect is currently also played in Poland by the Economy Mobilisation Programme, which is a classified document adopted by the Council of Ministers. It contains production and repair tasks to be performed by enterprises in conditions of a threat to national security and in wartime. The primary objective here is, of course, to maintain security and continuity of supply of military equipment and services to the Armed Forces and other authorised bodies, such as the Police and other uniformed services.

3. Personal contributions

As stressed above, public burdens in the form of personal contributions may be imposed on individuals both in peacetime and in the event of an announcement of mobilisation or the outbreak of war, and in situations where martial law or a state of natural disaster has been introduced. This kind of public contributions duty is understood as a duty to perform works and services involving human physical or mental labour, or by indicating certain activities, with varying degrees of generality, e.g. giving first aid, keeping guard, safekeeping the property of the injured, performing certain works, etc. These contributions are unpaid, temporary and are characterised by the uniqueness of purposes justifying their performance and the necessity of contributions for the required effectiveness of an undertaking in the protection of public interest (Szalewska, 2012, p. 521). Understood in this way, a personal contribution as a type of a public burden means the behaviour of the obliged entity, resulting from the provisions of administrative law, consisting in the performance of certain activities, services, work for the benefit of the public, which is of a compulsory nature. The basic

element of in-kind contributions is the coercion to provide work which is justified by the public interest.

Pursuant to statutory provisions (the Act of 21 November 1967 on the Universal Obligation to Defend the Republic of Poland), personal contributions may be imposed on persons of Polish citizenship who are at least 16 years of age and not more than 60 years of age. They consist of performing various types of *ad hoc* work to make preparations for state defence or to combat natural disasters and eliminate their effects (the Act of 18 April 2002 on a State of a Natural Disaster). In addition, the duty to perform personal contributions may also include the duty to use simple tools at one's disposal and, in relation to persons performing contributions involving the delivery of documents of appointment to active military service and calls for service (couriers), and also to use means of transport at one's disposal. In addition, the obligation of personal contributions may be imposed in connection with military exercises, exercises in units intended for militarisation, civil defence exercises and practical exercises in the field of universal self-defence, as well as for the purpose of supplying and handling objects (Regulation of the Council of Ministers of 5 October 2004 on Personal Contributions for Defence in Peacetime). In the event of an announcement of mobilisation and in wartime, persons subject to the obligation of personal contribution may at any time be called upon to perform various types of *ad hoc* work for the benefit of the Armed Forces, civil defence or organisational units performing tasks for the needs of the state (Regulation of the Council of Ministers of 11 August 2004 on Personal and Material Contribution for Defence in the Event of an Announcement of Mobilisation and in Wartime).

The statutory regulations provide for numerous exemptions concerning entities that are not subject to the obligation of personal contributions. These entities include persons holding a public mandate (persons elected to the Sejm and the Senate of the Republic of Poland and to local government bodies), soldiers in active service, judges, prosecutors and officers of various uniformed services (the Police, Border Guard, State Fire Brigade, etc.), pregnant women and women in the period of 6 months after giving birth as well as persons taking care of children under 8 years of age, persons taking care of children between 8 and 16 years of age who live together with them, persons taking care of persons who have been declared permanently incapable of working or recognised as completely incapable of working and living independently (the Act of 17 December 1998 on Pensions from the Social Insurance Fund). The exemption from the obligation to provide personal contributions for the indicated persons takes place on the basis of documents confirming the reason

for the exemption and presented to the head of a municipality or a mayor of a town/city by the persons concerned.

The relevant provisions regulating the obligation to provide personal contributions indicate the time of their performance, which in peacetime may not exceed 12 hours at a time, and in the case of couriers and persons delivering and handling items of in-kind contributions – 48 hours, and the obligation to provide personal contributions may be imposed no more than three times a year. In the event of an announcement of mobilisation and in wartime, the time of performing personal contributions must not exceed 7 days at a time.

The imposition of the obligation to perform personal contributions in peace time takes place by way of an administrative decision issued by the head of municipality or mayor of a town/city upon the request of a military recruitment officer, the head of an organisational unit performing tasks for the needs of state defence or a competent civil defence authority. Obviously, the military administration bodies have data on individuals subject to the duty to provide military contribution, as a direct result of the obligation to keep military records, in the form of a formalized file consisting of lists of data on individuals (Regulation of the Minister of National Defence of 14 June 2004 on Military Records of Contributions for Defence).

The aforementioned decision on imposing the duty to provide a personal contribution is delivered, together with a justification, to the obliged person and the applicant in writing, together with a justification, 14 days prior to the date of the appearance to fulfil the duty. The decision may be appealed against by the obliged person and the applicant to the voivode within 7 days from the date of its delivery, and it should be remembered that the decision imposing the duty to provide personal contributions is immediately enforceable within the period specified therein. The person on whom the duty to provide the personal contribution is imposed is obliged to appear to provide the contribution at the date and place indicated in the decision.

In the event of an announcement of mobilisation and in wartime, the imposition of the duty to provide personal contributions is made by the head of a municipality or mayor of a town/city on the basis of *ad hoc* requests submitted by bodies and heads of organisational units as well as military commanders, while in specific situations these entities may impose the duty to provide contributions also by way of announcements or in another manner (Adamiak & Borkowski, 2005, pp. 314–315).

In peacetime, the same authorities that remain competent to impose the duty to provide personal contributions issue an administrative decision on the assignment of

a person to provide personal contributions, including those planned to be provided in the event of an announcement of mobilisation and in wartime, at the request of the competent military administration. Such decisions are delivered to the persons assigned to provide personal contributions and to the applicant in writing, with a justification. The applicant has the right to appeal against such a decision to the voivode within 14 days from the date of its delivery, and the summons may oblige the applicant to perform personal services in the mode of immediate appearance.

For the provision of a personal contribution, an hourly lump sum of $1/178^t$ of the amount of the minimum salary is payable (the Act of 10 October 2002 on Minimum Remuneration for Work), but if the personal contribution is performed by an employee during his or her working time and the employer has not paid the remuneration for the time missed because of the contribution, the person providing the contribution is entitled to a monetary payment instead of the lump sum for the missed working time, in the amount corresponding to the lost remuneration for work.

In addition, the employer is obliged to release (justify absence from work) the employee for the time necessary to provide the personal contribution, and the time of release due to the personal contribution is included in the period of work required to acquire or maintain employment rights (the Act of 26 June 1974 – the Labour Code).

Persons providing personal services who fall ill or suffer damage to their health during or in connection with the provision of such contributions, or on the direct way to the place where such contributions are provided, or on the way back, are entitled to receive services of medical entities free of charge. Similarly, persons who have suffered damage to their health as a result of an accident occurring during or in connection with the provision of personal contributions, as well as family members of persons who have died as a result of such an accident, are entitled to benefits provided for employees in the provisions on benefits for accidents at work and occupational diseases, and the right to benefits is determined and paid by the Social Insurance Institution, as a state insurance body (Boć, 1971, pp. 146–148).

4. In-kind contributions

Another type of a public burden which is of interest, being an element of the defence economy, are in-kind contributions. As mentioned at the beginning of this discussion, they consist in, as a rule, an administrative obligation to make things

available for the purposes of a specific public undertaking, the organisation of which lies within the competence of the administering entities. Contributions of this kind have a long tradition and rely on making available for use real and movable property owned, providing premises for evacuees, providing fodder and shelter for animals, providing tools and means of transport necessary for carrying out an organised social action, etc. In particular, means of transport have played a fundamental role in the process of economic mobilisation (Jabłonowski, 2001, pp. 167–192; Kamiński, 1979, pp. 200–217; Konarski, 2020e, pp. 43–60, 2021, pp. 63–108; Stankiewicz, 1961b, pp. 92–127;). At the same time, it is necessary to point out the significant role of transport networks and the entire related infrastructure for defence needs, the development of which is dictated by the needs of the state in this area (e.g. for evacuation, satisfying the needs of the population). This is mainly connected with the use of modern means of transport, which is a key element of preparation and use of the army support in case of a crisis or an armed conflict, or any other need for the public administration, including primarily the military administration (Blicharz, 2016, pp. 7–22). I would like to stress that it is the system of constitutional in-kind contributions that enhances the administration's ability to make transport resources available to carry out transport tasks in the event of various extreme situations in which the state may find itself (Jałowicz, 2019, pp. 31–42).

As for the obligation to provide in-kind contributions in peacetime, it may be imposed on state offices and institutions and other organisational units, as well as on individuals. This obligation consists in handing over for use the real estate and movable property owned by them for the purposes of preparing state defence. In the event of an announcement of mobilisation and in wartime, the above-mentioned entities may be obliged to provide in-kind contributions, which also consist in handing over the items listed above, but for use by the Armed Forces, civil defence organisational units or organisational units performing tasks for the needs of state defence (Regulation of the Council of Ministers of 3 August 2004 on In-Kind Contributions for Defence in Peacetime).

It should be remembered that during martial law means of road, rail and air transport as well as sea and inland navigation vessels may also be seized or requisitioned for state defence needs (the Act of 29 August 2002 on Martial Law and on the Competences of the Commander-in-Chief of the Armed Forces and the Principles of His Subordination to the Constitutional Authorities of the Republic of Poland). The requisition and return of requisitioned means of transport may be carried out by commanders of military units, the Commander-in-Chief of the Military Police, the Head of the Military Counterintelligence Service or

the Head of the Military Intelligence Service and the Head of the Inspectorate of Support for the Armed Forces (Regulation of the Minister of Infrastructure of 30 August 2004 on Seizing or Requisitioning Means of Transport for National Defence Needs During Martial Law).

According to the legal regulations in force, the time of the provision of in-kind contributions cannot exceed 24 or 48 hours at a time, depending on the subject of the contribution, or 7 days in the case of military exercises or exercises in units intended for militarisation. It should be remembered, however, that imposing this kind of obligation may take place not more 3 times a year in peacetime.

An administrative decision to allocate real or movable property for the purposes of in-kind contributions is issued by the head of a municipality or mayor of a town/city. A request for such a decision on the allocation of real property or movable property for the purposes of contributions in connection with their use during military qualification is submitted by the voivode or *starosta* respectively. The decision is delivered to the possessor of the real property or movable property and to the applicant. The possessor may appeal against the decision to the voivode within 14 days of its delivery, and the decision may also be changed by the voivode *ex officio* if it has been issued in breach of legal regulations.

The possessor of immovable or movable property towards whom a final administrative decision has been issued to allocate an indicated item for the purpose of in-kind contributions has been issued, may, at the request of the authorities and heads of indicated organisational units, be summoned by the head of the municipality or the mayor of the town/city to provide this contribution. Such a summons is delivered 14 days before the date of the provision of the contribution. Such a request is not subject to appeal and is immediately enforceable within the period specified therein. Ultimately, therefore, the possessor is obliged to hand over the item for in a usable condition together with the related documents at the time and place indicated in the request. The person taking over the contributed item is obliged to use it in a manner appropriate to its properties and purpose. The recipient is usually also responsible for the costs and other burdens associated with maintaining the item. It is also the recipient of the contributed item that is liable for its loss or damage and for any damage resulting from its misuse. All claims of the possessor against the recipient are time-barred one year after the item is returned.

The possessor is entitled to a lump sum for the use of the contributed item in the amount corresponding to the damage suffered as a result of its provision and its depreciation rate. As it is known, the lump sum is subject to annual adjustment for inflation (the Act of 17 December 1998 on Pensions from the So-

cial Insurance Fund). In addition, the possessor is entitled to compensation in the event of loss, destruction in whole or in part and for damage resulting from using the contributed item in a manner contrary to its properties or purpose (Adamus, 2010, p. 29). The right to such compensation arises on the day of the return of the contributed item or the receipt of notice that it will not be returned due to loss, etc.

The compensation is awarded at the request of the possessor or his heir (legal successor) or immediately *ex officio* in the event that the items cannot be returned to the possessor due to their loss or destruction. The request for compensation should be made within 2 months from the date of receipt of the certificate or report confirming the description of possible damage. The determination of the amount of compensation should take place no later than thirty days after the request.

The calculation of the compensation takes into account the percentage depreciation of the contributed items as a result of handing them over to the contributor for use until the date of their return or the date when he received a notice that the items cannot be returned. In addition, market prices of the contributed items handed over for use on the day the claim for compensation are to be used to determine the amount of compensation. However, compensation awarded for loss, damage or resulting from the use of the contributed item is reduced by the amount paid from the insurance policy of these items. In the light of the regulation in force, the party that does not agree with the amount of the determined compensation may, within 14 days from the date of delivery of the notice on the award of compensation, demand that it be determined by way of court proceedings.

Conclusion

To conclude, there are several important issues related to the link between the defence economy and the institution of constitutional personal and in-kind contributions. Firstly, in the recent literature one can sometimes come across opinions calling for a change of nomenclature and replacing the concept of contributions for the defence of the state with the concept of contributions for the security of the state (Lewandowski, 2019, p. 88). The argument put forward is that these contributions go beyond the area of state defence preparations. This concerns, first of all, contributions in the event of a natural disaster. Undoubtedly, the terminology referring to the concept of security in its various areas has become popular recently. However, despite its usefulness, this concept has no constitutional character, and as long as this does not change, there is no need

to make any linguistic reshuffling in this respect. In any case, legal scholarship uses the existing nomenclature without commenting on its correctness.

Secondly, the remarks made in the relevant literature referring to the process of planning in-kind contributions, in particular in the area of visual inspection, should be accepted, however, the what is also problematic is the scope of use of the possessed resources of the national economy, the lack of a comprehensive incentive system for the entities providing personal and in-kind contributions and a number of problems of procedural nature (Filip, 2020, pp. 266–267; Lewandowski, 2019, p. 93–102). Besides, the lack of unification of legal acts in the area of contributions as well as the above-mentioned procedures of making them is a constant problem (Konarski, 2020e, pp. 58–59; Sitek, 2018, p. 199).

Finally, it should be stressed that the system of constitutional public burdens in the form of personal and in-kind contributions, both in peacetime and in wartime, should certainly be regarded as an important complementary element of the state's economic mobilisation potential, capable of having a significant positive impact on the effectiveness of activities carried out by the state administration to limit the effects of natural disasters, and above all, to raise the potential of the defence economy in wartime. However, this may take place only in the case of a rational determination of the needs and procedures of their provision, i.e. primarily, a normative ordering of the system of personal and in-kind contributions.

Bibliography

Legal acts

The Constitution of the Republic of Poland of 2 April 1997 [Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.], *Dziennik Ustaw* [Journal of Laws, hereinafter: *Dz. U.*] 1997, No. 78, item 483, as amended.

The Act of 14 June 1960 – the Code of Administrative Procedure [Ustawa z dnia 14 czerwca 1960 r. – Kodeks postępowania administracyjnego], consolidated text: *Dz. U.* 2022, item 2000, as amended.

The Act of 21 November 1967 on the Universal Obligation to Defend the Republic of Poland [Ustawa z dnia 21 listopada 1967 r. o powszechnym obowiązku obrony Rzeczypospolitej Polskiej], consolidated text: *Dz. U.* 2021, item 372, as amended.

The Act of 26 June 1974 – the Labour Code [Ustawa z dnia 26 czerwca 1974 r. – Kodeks pracy], consolidated text: *Dz. U.* 2022, item 1510, as amended.

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The Act of 29 August 2002 on Martial Law and on the Competences of the Commander-in-Chief of the Armed Forces and the Principles of His Subordination to the Constitutional Authorities of the Republic of Poland [Ustawa z dnia 29 sierpnia 2002 r. o stanie wojennym oraz o kompetencjach Naczelnego Dowódcy Sił Zbrojnych i zasadach jego podległości konstytucyjnym organom Rzeczypospolitej Polskiej], consolidated text: Dz. U. 2022, item 2091.

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Regulation of the Council of Ministers of 11 August 2004 on Personal and Material Contribution for Defence in the Event of an Announcement of Mobilisation and in Wartime [Rozporządzenie Rady Ministrów z dnia 11 sierpnia 2004 r. w sprawie świadczeń osobistych i rzeczowych na rzecz obrony w razie ogłoszenia mobilizacji i w czasie wojny], Dz. U. 2004, No. 203, item 2081.

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Summary

The article analyses the constitutional legal institution of public burdens for the defence of the state in its relation to the defence economy. Public burdens in the form of personal and in-kind contributions are an important element of the defence economy, determining the defensive potential of the Polish State. In the course of the discussion the author draws attention to both normative aspects of the system of contribution for defence and economic aspects related mainly to material and technical supplies for the armed forces.

KEYWORDS: administrative law, mobilisation systems, defence economy, military economics

Streszczenie

W przedmiotowym artykule dokonano analizy związanej z konstytucyjną instytucją prawną ciężarów publicznych na rzecz obrony państwa w jej relacji z gospodarką obronną. Ciężary publiczne w postaci świadczeń osobistych i rzeczowych stanowią istotny element gospodarki obronnej, decydując o potencjale obronnym państwa polskiego. W trakcie rozważań autor zwrócił uwagę zarówno na aspekty normatywne systemu świadczeń na rzecz obrony, jak i aspekty ekonomiczne oraz gospodarcze związane głównie z zaopatrzeniem materiałowo-technicznym sił zbrojnych.

SŁOWA KLUCZOWE: prawo administracyjne, systemy mobilizacyjne, gospodarka obronna, ekonomika wojskowa

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